SENATE—*Thursday, June 24, 1993*

(Legislative day of Tuesday, June 22, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

Gracious God, how desperately we need unity in Washington. The Nation is on the edge of a precipice, and we can't seem to get it together.

God of love and peace, it is exciting to contemplate the potential power of the United States Senate when, with all its diversity, it is united. Conversely, it is a sad situation when the diversity of the body is fragmented. The Nation is strong when government is united; the Nation is weakened by brokenness.

These are critical days, Father—critical economically, spiritually and morally—critical politically. Make real the words engraved on the Dirksen Building: "The Senate is a Living Symbol of the Union of the States."

Gracious God, give to the leadership of our Nation the desire, the will to unite that, in such awesome power, they might address the crises we face.

We pray in the name of Jesus, Prince of Peace. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 24, 1993.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

OMNIBUS BUDGET RECONCILIATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1134, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1134) to provide for reconciliation pursuant to Section 7 of the concurrent resolution on the budget for fiscal year 1994.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 507, to increase the capital equipment expensing allowance for small businesses, and allow small businesses to deduct an increased level of capital purchases from their taxes.

(2) Nickles amendment No. 508, to eliminate the transportation fuels tax and the imposition of the 4.3 cents deficit reduction rate.

AMENDMENT NO. 508

The ACTING PRESIDENT pro tempore. There will now be 30 minutes of debate remaining on the Nickles amendment No. 508.

Who yields time?

Mr. BREAUX. Mr. President, I understand that the circumstances are that we each have 15 minutes to allocate on the Nickles amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BREAUX. Under that agreement, Mr. President, I yield 5 minutes to the distinguished Senator from Montana, [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I rise in strong opposition to the Nickles amendment. I oppose it not because I favor a gas tax but because I believe we must reduce the budget deficit by $500 billion as we promised the American people. As a member of the Senate Finance Committee, I have been involved in the debate on this so-called gas tax for several weeks. In my opinion, some of the proposals originally considered by the Finance Committee were grossly unfair. They would have altered the President's plan to lift the burden of deficit reduction off of corporate America and put it squarely on middle America and senior citizens.

Fortunately, the Finance Committee rejected those proposals. Could the package still be improved? Of course, it could. I would like to see the gas tax eliminated entirely. It is a highly regressive tax that is unfair to many regions of the country. Moreover, it has none of the positive environmental benefits of previous energy tax proposals. That is why I fought to lower or eliminate the gas tax in the Finance Committee deliberations. But this motion seeks to eliminate this tax without including any offsetting method of reducing the deficit. I see that as the height of budgetary irresponsibility. We must now make those hard choices we have talked about for so long, and that means reducing the deficit. I would rather not saddle taxpayers with a 4-cents-per-gallon gas tax, but I feel much better about that than I do about saddling our children with a skyrocketing national debt projected to reach $5 trillion within a few years.

It is not enough to just oppose taxes. Without an alternative, that opposition represents just avoiding a decision.

In conference, I hope to work toward the principle of everybody pays or nobody pays on the energy tax. And by that I mean we adopt either a broad-based energy tax that is fair to all income levels and all regions, an energy tax that captures the environmental benefits of the President's original proposal, or we could drop the gas tax entirely and offset the revenue through other means.

But we simply cannot strike the gas tax at this juncture and offer no offset. That would leave a $25 billion hole in the budget and open the door to more budget irresponsibility. For those reasons, I strongly oppose this motion and urge my colleagues to do the same.

I yield the remainder of my time to the Senator from Louisiana.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield the Senator from Iowa 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I strongly support this effort by my colleague, Senator NICKLES, from Oklahoma, to strike the gas tax increase from this reconciliation bill. I have always thought, as I have heard talk about increasing the gas tax over the years around this Congress, both in the House and Senate, if you would take out of the debate those people who are proposing the gas tax and who have chauffeur-driven limousines and never

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

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pay the gas tax in the first place, or people who come from areas of the country where they have mass transit that we do not have in rural areas, you take those people out of the debate and you would never have anybody around this town suggesting increases in the gas tax because, obviously, they do not know how difficult it is to pay the tax or how dependent people in rural areas of America are upon the car and other forms of transportation to get around where we do not have mass transit or chauffeur-driven limousines.

There is no question that the tax increase on fuels is regressive and hits the middle class and the poor the hardest.

A 1987 Peat Marwick study found that those making less than $20,000 paid 23 percent of the total in gas taxes. In comparison, those higher income people making $100,000 or more pay only 5 percent of the total. So it is regressive.

Moreover, a Congressional Budget Office study shows that the lowest income group, those making under $5,000, spends, as a share of income, seven times more on gas taxes than those in the highest income groups over $50,000.

In addition, fuel taxes impose an unequal and unfair burden on rural areas. CBO reports that rural families spend twice as much on motor fuels as urban families in the Northeast and 40 percent more than all families nationwide.

Secretary Bentsen said, on June 3, 1993:

> There is no regional balance in the gas tax. In some parts of the country it becomes quite punitive. That's particularly true of those States that have substantial rural areas or don't have extensive mass transit.

Now, if, on June 3, former Senator Bentsen, now Secretary Bentsen, had this to say about the gas tax, what is the White House doing backing this gas tax increase? And it is interesting to remember what President Clinton, as candidate Clinton, had to say about the gas tax increase. Candidate Clinton referred to this tax as "back breaking" and that it would "grind the middle class and lower middle-income class into the dirt."

But as with many issues, the President has failed to follow through with his promises. What about the President's pledge to create jobs and the detrimental impact that this gas tax will cost jobs and will increase consumer costs?

I received a recent letter from a constituent in Clinton, IA, by coincidence, that says it all. I want to quote from an April 30 letter.

> Since 1986, my firm has created over 400 new permanent jobs in our community of 28,000. Because of numerous disincentives to investment being discussed or proposed we have decided to postpone our plan for $7.5 million 2-year plant expansion that would have created an additional 150 jobs.

He says strongly, and underlining:

> The proposed Btu tax pushed us over the edge. Our new game plan will be to adapt to a shrinking economy by possibly shrinking our business. Our budding export program of 5 percent sales will certainly be destroyed.

If that is not proof that the Clinton tax bill will destroy jobs and hurt the economy, I do not know what else it would take. And I do not think that the Btu tax is necessarily dead with the White House just this weekend speaking in support of it, even considering this compromise in the Senate.

With all the problems that this gas tax will create, my greatest concern is what this energy component of the tax bill is going to look like when the conference committee gets done cutting all of its deals. It concerns me when Budget Director Panetta, Secretary Bentsen, and President Clinton have all recently indicated that they prefer the House Btu tax to the Senate gas tax, and Chairman ROSTENKOWSKI has made it very clear that he supports it as well.

So, it looks to me like this 4.3 cent fuel tax is really just a smokescreen that is being used to get this tax bill through the Senate so that some version of the House's dreaded Btu tax can be resurrected in conference.

This makes it even more important to strike the fuels tax from this tax bill, Mr. President. We in the Senate, as well as the American taxpayer, need as much leverage in conference with the House as possible. Otherwise, when we go up against President Clinton, Secretary Bentsen, Director Panetta, and Chairman ROSTENKOWSKI in conference, we, the American people, are going to lose.

I, therefore, urge our colleagues to support this amendment and get rid of this gas tax.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in the distinguished company of our colleagues and the members of the Committee on Finance who reported this measure to the Committee on the Budget, from whence it now comes to tne floor.

We have proposed a modest, some would say a minuscule, increase in the gasoline tax. And the response we have here—I do not know whether it is disproportionate, given how small the revenue measure is, or deserved because of our lack of a capacity to produce something serious.

Mr. President, on the front page of the Washington Post today you will see an affectionate, wonderful profile of our beloved President pro tempore, Senator ROBERT C. BYRD of West Virginia. It is by Helen Dewar and Eric Pianin, respected members of the Press Gallery. Describing an address by the President pro tempore. It begins, "First he invoked images of ancient Romans." We have treasured his wonderful graphic extracts from Roman history as we stand in the Senate with Roman statements all about us, "Novus Ordo Seclorum," "Annuit Coeptis," "E Pluribus Unum."

There is one thing to be recalled of the Roman Empire, an account of the decline and face the leakage of reality.

The time came when the rulers of Rome, the Senate and people of Rome, S-P-Q-R, Senate—still on the signs of the city of Rome, "The Senate and People of Rome"—could not assess the real facts of their strengths, their weakness, and their danger.

The United States is endangered by insolvency. We have lived a fantasy life of increasing borrowing and resisting taxation to the point where we are no longer free to make the decisions which had never occurred to us that anyone else could influence not 15 years ago.

We have done that on this floor with sometimes infantile—that word infantile is used in Newsweek by Joe Klein this week—infantile self-indulgence. Here are some of the facts.

We import oil. When oil is threatened, our imports are threatened, we must go to war half a world away. When oil is embargoed, our automobile industry unprepared, evidently unaware of it, finds it loses a quarter of its market share to the Japanese. And we wonder, what do the Japanese do to us and what do we do to them?

We import oil, and yet gasoline is at the lowest price it has been since 1918 in our records; the lowest price it has been since Senator ROCKEFELLER'S great grandfather began selling it as a byproduct of kerosene. And we cannot add 4.3 percent. That is a leakage, sir, of reality. Canada, which exports oil, has half again the price we have, sir.

Let us come to terms with reality.

As regard regional impact the Treasury Department has very simple numbers. The amount per capita impact of this measure, is highest in New England, lowest in South Central, average in West North Central. The highest measure is in the New England States. This notion of farmers driving 1,000 miles to town is a folk myth, again a leakage of reality.

Mr. President, I ask unanimous consent that the chart to which I referred entitled "7.3 Cents Per Gallon Tax on Transportation Fuels" be printed in the RECORD.

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

7.3-CENTS PER GALLON TAX ON TRANSPORTATION FUELS

Census region	Tax increase	
	Amount per capita	As a percent of income
New England	$48	0.22
Middle Atlantic	45	.21
South Atlantic	48	.26

7.3-CENTS PER GALLON TAX ON TRANSPORTATION FUELS—Continued

Census region	Tax increase	
	Amount per capita	As a percent of income
East North Central	46	.25
East South Central	45	.30
West North Central	47	.27
West South Central	46	.29
Mountain	46	.28
Pacific	47	.24

Source: Treasury Department.

Mr. NICKLES. Mr. President, I yield to Senator KOHL 4 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. KOHL. Thank you very much.

Mr. President, I would like very much to see a deficit reduction program passed in the Senate. I think it is very important. But I think it is equally important that we pass it without the gas tax. The gas tax, by anybody's addition, is a tax on virtually everybody in this country. It is certainly a huge tax, $24 billion, falling primarily on the middle-class and lower income people in our country.

That is precisely what we said we would not do during the campaign. It is precisely what our President said he would not do during the campaign.

It seems to me that we have a much, much stronger package, much more acceptable to the American people who, after all, are the people we are here representing, if we do not have a gas tax. They talk about it as a 4.3-cent gas tax now. We all know it will soon become, if it is passed in the Senate, something quite more than 4.3 cents. So we are talking about a significant increase in taxes on the middle-income people of this country.

Twenty-four billion dollars is what it is in this body, and if we want enough and sufficiently not to tax middle-income people, we can find $24 billion without a great deal of difficulty. We have all talked about the precarious value of the superconductor, super collider, the space station, a variety of defense procurement programs. There are many ways in which we can find $24 billion, as significant as it is, if, in fact, we do not want to tax middle-income America at this time.

I do not think we should. I think it weakens the package that we are trying to get passed here in the Senate. For that reason, I cannot and do not support it.

It will have a ripple effect throughout our economy. It will affect the trucking industry and prices that people pay and jobs. It will affect the airline industry and what people pay for tickets, as well as jobs. It will have a real negative affect on the economy. It will cost jobs and tax middle-income America—something we do not wish to do at this time. So I cannot support the gas tax.

I urge that we reject the gas tax at this time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. Mr. President, I yield myself up to 5 minutes.

The ACTING PRESIDENT pro tempore. Senator BREAUX is recognized.

Mr. BREAUX. Mr. President, let us make it very clear as to what we are talking about here. Nobody likes any taxes. But if the amendment of the Senator from Oklahoma, my good friend, was adopted, we will have increased the deficit by $24 billion.

It is easy to stand up on the floor and say we do not want anything difficult to do in this bill. We want to feed the American people pablum and say it is going to solve the deficit problem.

Well, Mr. President, the American people have had enough pablum. I think they would be willing to make sacrifices if it is fair across the board and makes a difference in reducing the deficit. We are not going to get it just by magic. My mama used to tell me, "If something looks too good to be true, it probably is." I think that is what we saw yesterday—some magical amendment that is somehow going to put everything back in order with no pain, with no heavy lifting, with no suffering or sacrifice.

I suggest that is what Congress has given the people for two decades. We have given a lot of easy proposals and solutions and great political speeches, but we never have given them anything that works, anything that will really solve the problem.

Today we are here with a package I think is fair. Eighty percent of the tax increases are going to be paid for by the people who can best afford them—those making over $200,000 a year. This broad-based transportation tax is an effort to try to reach those goals.

People in my State said the Btu tax proposal is not a good idea. You would have to create a bureaucracy in order to enforce it. It was bad for exports and good for imports, which is bad for America. It was going to be five taxes: A tax on manufacturing, a tax on consumer goods, a tax on heating and cooling, a tax on transportation fuels. It was a combination of taxes that tax everybody and particularly hurt the middle-income people of this country.

The Btu tax is dead, and I predict it is not going to come back, because people now realize it is a bad idea. We have to replace it with something more than smoke and mirrors. Some of these proposals I have seen around here give smoke and mirrors a bad name. We have to have proposals that are real and that work.

What we have is a proposal for a 4.3 cent transportation tax, not just gas that you use in cars, but gas used by all forms of transportation in the United States of America. The effect of it is to raise $24 billion to use for deficit reduction.

Is that going to be harmful to the folks? I suggest if you have to have this type of an increase in revenues, this is the best time to do it. The chart clearly indicates if you look at the price of gas in the United States—and our chairman made this point—with the increase, the tax, gasoline at the pump will be cheaper than it was in 1990, cheaper than it was in 1985, be cheaper than it was in 1980, 1975, 1970, 1965; and, yes, it will even be cheaper with the tax than it was in real terms in 1920.

I think the American people are willing to make a sacrifice if it results in serious deficit reduction. This is a small sacrifice. When you add the other features of this bill—some people say it is regressive. If you look at it by itself, perhaps that is true. But if you consider what this bill does with the earned income tax credit, for people who are middle-income people, it more than offsets any increase in a fuels transportation tax.

Let me give you one example: a family of four making $25,000 a year. That is hardworking family, getting by, but they are not doing that well. This would raise $116 a year from that family. That is not good. But let us see what the earned income tax credit would do for that family of four. It would give them $318 a year back—more than offsetting any increase in a transportation tax by $202. That family of four, at $25,000, would be to the good by $202 at the end of the year, even with this broad-based transportation tax they would pay. The average person pays $29 a year. But if we can help them by this earned income tax credit, I suggest that we have done them a very good deal.

We talk about job loss. What about the deficit? Increasing the deficit by voting for the amendment of the Senator from Oklahoma increases it by $24 billion. That is going to cost jobs. That is not good for middle-income people. They do not want to have a higher deficit and fewer jobs.

People in Louisiana told me they would rather pay a little bit and have a good job than to have to pay a so-called Btu tax and perhaps lose their job. So I think we have done what is needed. We got rid of the Btu tax, and we have replaced it with a transportation tax at 4.3 cents. I suggest that this is levied at the best possible time in the history of this country to really raise money for deficit reduction.

I reserve the remainder of my time.

Mr. NICKLES. How much time remains?

The ACTING PRESIDENT pro tempore. Seven minutes, four seconds.

Mr. NICKLES. I yield 2 minutes to the Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. We have heard that we need to raise $24 billion to reduce the deficit by putting on a transportation tax. Clearly, there is a another alternative: Simply to cut spending.

This particular tax would hurt American jobs. There is no question about it. Our country's last great competitive advantage is our low energy costs in this country. Yet, the 4.3-cents-per-gallon fuel tax is another step down the road of simply throwing that advantage away.

This tax is going to steal American jobs and make us less competitive overseas. We are going to be exporting our jobs, and that is simply not what we want. This tax also discriminates against the poor and middle class.

I have heard during the debate some of our colleagues say that the Republicans only care about the rich. Well, the rich do not care about 4 cents a gallon. It is the poor and middle class who drive and take the airlines and use the trucking industry. All segments of American industry are going to be hurting. Our airline industry is already in a tailspin.

This is a regressive tax, and all those who claim to care about the effect of taxes on America's poor, America's middle class should support the Nickles amendment. This tax discriminates against the West. We have big distances in my State of Alaska. It is going to cost us more for foodstuff and industrial gas, and the price of every single product sold in my State will rise because of this tax, and every single Alaskan will pay a disproportionate share of this tax.

This is not a shared sacrifice, Mr. President. This is discrimination against just not Alaskans but an entire western region of our State. This tax is a rifle shot aimed at American jobs, the working people of this Nation and the West.

I urge my colleagues to support the Nickles amendment. I thank the Chair.

Mr. NICKLES. I yield to the Senator from Oregon 1 minute.

Mr. PACKWOOD. Mr. President, first, the argument is that if we vote for the Nickles amendment, we will widen the deficit by $24 billion. That is not true. The deficit will be the same whether or not we have this gasoline tax.

If we have the money, we will spend it. If we do not have the money, we will not spend it. The deficit will be the same.

Second, if by chance, passing the Nickles amendment will cause this bill to unravel, I am delighted to vote for it. There are enough other taxes in here that ought to cause it to unravel, but if this can be the start, so be it. I am happy to support it.

Mr. NICKLES. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Four minutes, twenty-four seconds.

Mr. NICKLES. Mr. President, I will make a couple of comments and then ask my friend and colleague and cosponsor, Senator D'AMATO, to close.

I have heard many colleagues on the floor say we do not want to do anything that is going to hurt the low-income people. This gasoline tax does hurt the low-income people. Mr. President, it also hurts some industries that really cannot afford it.

It hurts the airline industry, and it hurts the airlines bad. The airline industry is losing lots of money, and this is going to cost all major airlines hundreds of millions of dollars. It is going to cost American Airlines $478 million in additional taxes over the next 5 years, and they are already losing hundreds of millions of dollars.

Mr. President, I also think we should hold our candidates and elected officials accountable. President Clinton has stated repeatedly he is opposed to a gasoline tax. In his book "Putting People First," he says on page 91, "I opposed Federal excise gas tax increases." He said it time and time again. He even castigated President Bush for increasing gasoline taxes. He said, after telling the 1988 Republican Convention, "Read my lips—no new taxes," President Bush agreed to the second largest tax hike in U.S. history, including a higher tax on the middle class like a $25 billion increase in gas taxes. It just so happens that is exactly what we have right here, a $25 billion gasoline tax increase.

Mr. President, if this amendment passes, I will offer an amendment to strike the earned income tax credit. I will offer offsets. I think we should reduce spending, and I am more than happy to do it.

We cannot afford to put this punitive tax that will put lots and lots of people out of work, and it strikes the rural areas especially hard.

I yield the remained of my time to the Senator from New York.

Mr. D'AMATO. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. Two minutes and twenty-five seconds.

Mr. D'AMATO. Mr. President, I remember the 1990 budget reduction program, the largest budget reduction package in the history of the world. Boy, that was 2 years ago, and here we are back again with the same thing. It was a nickel a gallon. Now it is down to 4 cents. I tell you when it comes back from committee who knows how much it will be.

Let me tell you something. Now is the time to kill the taxasaurus monster, kill him down, because you do know he is back and will eat more and more jobs, want more money. And do you know what? You are not going to have a deficit reduction. You are going to have some.

So take this lead pencil and give him lead poison. Kill him right through. If you do that, you are going to save jobs and going to save money. Then let us do what President Clinton said, "cut spending."

I want to help the President keep his program. So let us kill the taxasaurus, finish it. If you finish it, you will be helping the people reduce the deficit by cutting spending. We are not kidding the American people.

I want to help President Clinton keep his promises when he says he would not raise the taxes on gasoline.

Kill the taxasaurus monster. He is hemorrhaging now. He is hemorrhaging only, and with about six or seven good people on the other side, let say let us kill it.

Do not do the same thing we did with the turkey in 1990, that Budget Reduction Act, that was going to be great biggest deficit reduction in history. I tell you we had Republicans and Democrats vote for it. I tell you politically what we are doing is an exercise in camouflage so he can come back and eat the rest of the forest. He will be back sooner rather than later unless we finish him and pass the amendment.

Mr. NICKLES. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Twenty-three seconds.

Mr. NICKLES. I yield to the Senator from Missouri the remainder of the time.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, gas taxes ought to go for highways and transportation needs. That is what the people of America expect when they pay gas taxes.

This tax is a burden on farmers and on people in rural areas who have to drive a long distance. We ought to get rid of this tax. We need to cut out spending. We can cut the earned income tax credit, as my colleague from Oklahoma has said. This is an opportunity to do something constructive to cut out a tax that will burden the middle class.

Mr. President, I rise in strong support of the amendment offered by Senator NICKLES, myself, and others. It would strike the 4.3-cent gas tax in this bill, and would strike a blow for the working people of this country.

As one who was actively involved in the highway bill reauthorization we passed several years ago, I can tell you that maintaining adequate roads and bridges remain a vital component to the economic development of any community.

Without a good transportation infrastructure, communities—particularly smaller or rural communities—stand little chance to retain or attract growing businesses. That's why it remains so important to fully fund the highway bill, and why it is so vital that we do not use gas tax dollars for any other purpose.

We have had this fight before. Remember the charges that the highway trust fund wasn't being spent out in order to mask the deficit? Remember the huge fight over a one-time 2.5-cent

diversion, which would then revert to the trust fund or cease?

Well, not only does this bill continue the so-called one-time diversion of the 2.5 cents, but it goes even further. It dumps yet another Clinton campaign promise overboard and supports increasing the gas tax—for anything but highways.

The gas tax is regressive. It is unfair to large States of the West and Midwest. It hurts agriculture and rural areas. And it will devastate an industry the Clinton administration has said it wants to help—the airline industry.

So why is it in this bill? Because the Democratic leadership and the President can't seem to get over their affinity to raise taxes first, cut spending later.

Was there no program in the budget, not even one, that the Clinton team could have found to terminate? In a $1.5 trillion budget, couldn't they have found one out-of-date program to just say no more?

No. And that is why this bill combs the Tax Code for every possible nickel. And that is why this unfair, ill-conceived tax on working Americans is part of this bill, because the Democrats and the President can't shake the habit—of raising taxes first.

Mr. President, I urge my colleagues to oppose this $25 billion burden on middle-class Americans and to restore the principle that gas taxes are for roads and bridges.

Mr. DOMENICI. Mr. President, the 1,081,000 drivers in New Mexico operate more than 1,320,000 registered vehicles and drove 16.7 billion miles on more than 1 billion gallons of motor fuel in 1990.

The State of New Mexico Department of Finance and Administration has done a study on incomes, which concluded that a gasoline tax costs New Mexicans more than residents in 46 other States. New Mexicans rank near the top—No. 3 out of 50 States in terms of gasoline consumed per $1,000 of income.

New Mexicans consume 41.2 gallons of gasoline for every $1,000 in income that New Mexicans earn. This puts us at 59 percent above the national average. This underlines the regressivity of this tax. It also underlines the regional unfairness of a gasoline tax.

New Mexico ranks seventh highest among States in gasoline consumption per capita partially because of the State's sparsity. Distances are vast. We drive a lot and we have few mass transit alternatives.

New Mexicans are not alone. Americans spend $800 billion a year for transportation products and services. This is 19 percent of all consumer spending.

A 1987, Peat Marwick study found that 23 percent of total gasoline excise taxes are paid by those making less than $20,000 a year. In comparison, high-income earners, those making more than $100,000, account for 5 percent of the total.

A 1990 CBO study found that people in the lowest one-fifth of the income scale spend 6.9 percent of their posttax income on motor fuels. This is 4½ times the share of income than the wealthiest one-fifth spends on gasoline.

A gasoline tax is a tax on earning a living. You can't cash a paycheck if you don't get to work every day. Surveys by the Department of Transportation have found that 31 percent of trips made by people earning between $10,000 and $30,000 are directly related to earning a living.

CBO found that rural families spend nearly twice as much on gasoline than urban families in the Northeast and 40 percent more than all families nationally.

Businesses use one-third of all gasoline and most diesel fuel. This is another example of a tax hurting small business—a group we supposedly want to help.

This is a tax on lower and middle-income families. Whereas the supporters of this package say the taxes fall mainly on the wealthy, the transportation fuels tax, when looked at alone, hits the lowest incomes the hardest.

More than half of the new fuels tax will be paid by families with less than $50,000 in income. The new fuels tax is a bill these families are not prepared to pay.

There is new spending in this reconciliation bill that is supposed to offset the effect of the tax on low-income families—$16.5 billion in new spending for the EITC. This is the ultimate in tax and spend—add a new tax and add some more spending to counteract the effect of the tax. Is this efficient government in action?

But what about the elderly? Most elderly people do not work, so they would not benefit from the earned income tax credit.

President Clinton warned us that more taxes were coming during the campaign, but he said he would only raise taxes on the wealthy, who should pay their fair share.

Mr. HELMS. Mr. President, our friends from the other side of the aisle met last week and agreed to raise taxes once more on the middle-income people of the United States.

They propose a 4.3-cent gas tax that is regressive, which will hurt the farmers, the truckers, the commuters, and the small businessmen of North Carolina and of this country.

Mr. President, this gas tax will pluck money right out of the pockets of farmers and truckers. Farmers in North Carolina must use a great deal of gasoline to plant and harvest their crops and then to move them to market.

So, under the Democrat plan, the American people are going to have it socked to them again. They are going to be gouged with more taxes to pay for the new spending programs. Let me emphasize, this proposed gasoline tax is unfair and unnecessary.

The Democrats have removed the Btu energy tax and they have replaced it with a 4.3-cent gasoline tax increase. They have changed the name, but a tax is a tax is a tax no matter what anybody tries to call it, no matter from which pocket you try to take it.

Mr. President, the American people want the Congress to cut spending. They do not want this Democrat-controlled Congress to raise taxes again. This proposed gasoline tax, and the rest of the $300 billion in taxes in the Democrat bill, will cause more inflation. It will cause the loss of more jobs. It is going to slow the economy.

I saw a study by the Joint Economic Committee that concluded that a 5-cents-a-gallon gasoline tax increase will cost more than 300,000 jobs during the next 2 or 3 years. That is fearful to contemplate.

The Senate should support this amendment to strip out the gas tax.

THE GAS TAX HAS GOT TO GO

Mr. PRESSLER. Mr. President, I rise as a cosponsor of this amendment to strip away the proposed transportation tax, better known as the gasoline tax, or even more correctly the rural America tax. The gasoline tax will punish people who choose to live in places like my home State of South Dakota, because distances are significantly greater and people are forced to drive farther for work, pleasure, and basic living. Everyone from small businesses and middle-class families, to truckers, farmers, and ranchers will pay the price of the ill-conceived gasoline tax.

Mr. President, this is one of the most unfair taxes I have ever seen. It is harshly regressive. According to the U.S. Census Bureau, States with the lowest per capita incomes are some of the highest gasoline consumers in the country. For example, in terms of total personal income, South Dakota ranks fourth lowest in the country. However, South Dakota is the third highest consumer of gasoline per capita at approximately 700 gallons. South Dakotans each drive approximately 1,000 miles more per year than the national average and use 15 percent more gasoline than the national average. These figures come from the Federal Highway Administration.

On the other hand, four of the Nation's wealthiest States, Connecticut, New York, Pennsylvania, and New Jersey, rank among the lowest, nationwide, in terms of gas consumption. Residents of the District of Columbia use less than half the gas than that of the average South Dakotan.

I have a chart here that more clearly shows that this tax places an unfair, highly disproportionate amount of the burden directly on those least able to afford another tax increase. The green

columns denote yearly income per capita. The red columns show yearly gas consumption per capita.

All this from a majority party whose leader promised a tax cut for the middle class. As a matter of fact, President Clinton campaigned against a gas tax increase saying "instead of a back-breaking Federal gas tax, we should try conservation, increased use of natural gas, and increased use of alternative fuels."

Our former colleague, and current Treasury Secretary Lloyd Bentsen, has even said there is no regional balance in the gas tax and that "in some parts of the country, the gas tax becomes quite punitive. That's particularly true of those States that have substantial rural areas." OMB Director Leon Panetta has been quoted as saying, "A gasoline tax would tend to hit rural areas harder." Judging from these quotes, the administration should be supportive of our effort to knock the gas tax out of this bill.

Mr. President, the gasoline tax also clearly hits hardest people and families who can least afford it. The lower a family's income, the larger the percentage that goes to fixed-rate taxes. Those with annual incomes of $10,000 spend nearly three times as much in terms of percentage of their income on gasoline than do those with incomes above $50,000. Many of the these low-income Americans will not qualify for the earned-income tax credit—the elderly and others without qualifying earned income.

As ranking member of the Senate Subcommittee on Aviation, I am concerned that the imposition of the transportation tax on the airline industry would serve only to exacerbate the industry's currently poor financial situation. During consideration of the President's budget resolution last March, I voted in favor of an amendment to exempt the aviation industry from the Btu tax. Since airlines and general aviators already face their fair share of registration fees and certificate charges, the proposed transportation fuel tax is not equitable. During a time when we are trying to help the aviation industry prosper, this transportation tax is counterproductive.

Mr. President, I also am concerned that America's travel and tourism industry also will be greatly affected by an increase in transportation fuel taxes. It is unfortunate the economic importance of travel and tourism in America is being overlooked.

Tourism is our Nation's largest export earner. Just as important, travel and tourism is the Nation's second largest employer. In fact, it ranks either as the first, second, or third largest employer in 37 States. Further, the travel and tourism industry leads the Nation in the employment of women and minorities.

We should be working to strengthen and build this vital sector of our economy, instead of imposing additional taxation that would diminish the industry's success.

The tourism industries in rural States could be particularly affected by increased taxes on transportation fuels. For example, in my home State of South Dakota tourism is the second largest industry. The Mount Rushmore National Memorial alone attracts more than 2 million visitors annually. In fact, according to National Park Service officials, 97 percent of visitors to Mount Rushmore are nonlocal visitors. That is, 97 percent of visitors to the memorial travel from distances greater than 50 miles. Certainly, our tourism industry will be adversely affected by increased fuel taxes.

As a member of the Senate Subcommittee on Foreign Commerce and Tourism, I am committed to ensuring the continued prosperity of America's travel and tourism industry. In fact, I have requested the subcommittee chairman, Senator JOHN KERRY, to hold hearings to assess the impact of higher energy taxes on our travel and tourism industry. Should not Congress closely scrutinize the impact of any higher energy tax before such a proposal is enacted? This last minute energy tax alternative is simply not a sound legislative approach.

Recent election results, in Texas, Los Angeles, and Jersey City, NJ, demonstrate that Americans are opposed to new taxes, regardless of their label. The American people want to see significant spending cuts—cuts they do not believe either the President or the Congress has yet proposed.

I urge my colleagues to support this amendment and strip away this antirural, extraordinarily regressive transportation tax.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. BREAUX. Mr. President, they told me in law school if you did not have the facts on your side, you should argue something else. Senator D'AMATO has taken it to a new height. Since he does not have the facts on his side, he presented us with cartoons.

I suggest cartoons are not going to solve the deficit problem of America. If you want to increase the deficit by $25 billion, vote for the Nickles amendment because it removes $24 billion of deficit reduction from this bill. The American people are tired of cartoons. They want facts and deficit reduction.

Mr. President, I move on behalf of the majority leader and myself to table the Nickles amendment.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 507

The ACTING PRESIDENT pro tempore. Under the previous order, the vote will now occur on the amendment offered by the majority leader, amendment no. 507.

The question is on agreeing to the amendment (No. 507) of the Senator from Maine.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—93

Akaka	Exon	Lugar
Baucus	Faircloth	Mack
Bennett	Feinstein	Mathews
Biden	Ford	McCain
Bingaman	Glenn	McConnell
Bond	Gorton	Mikulski
Boren	Graham	Mitchell
Boxer	Gramm	Moseley-Braun
Breaux	Grassley	Moynihan
Brown	Gregg	Murkowski
Bryan	Harkin	Nickles
Bumpers	Hatch	Nunn
Burns	Hatfield	Pell
Byrd	Heflin	Pressler
Campbell	Helms	Pryor
Chafee	Hollings	Reid
Coats	Hutchison	Riegle
Cochran	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Roth
Coverdell	Kassebaum	Sarbanes
Craig	Kempthorne	Sasser
D'Amato	Kennedy	Shelby
Danforth	Kerrey	Simon
Daschle	Kerry	Simpson
DeConcini	Kohl	Smith
Dodd	Lautenberg	Stevens
Dole	Leahy	Thurmond
Domenici	Levin	Wallop
Dorgan	Lieberman	Warner
Durenberger	Lott	Wofford

NAYS—5

Bradley	Metzenbaum	Wellstone
Feingold	Packwood	

NOT VOTING—2

Murray	Specter

So the amendment (No. 507) was agreed to.

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

Mr. MOYNIHAN. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, parliamentary inquiry, what is the next order of business?

The ACTING PRESIDENT pro tempore. The Senate will now vote on the motion to table the Nickles amendment.

Mr. SASSER. I thank the Chair.

AMENDMENT NO. 508

The ACTING PRESIDENT pro tempore. The question is on agreeing to

the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTOR] is absent due to illness.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—50

Akaka	Feingold	Mikulski
Baucus	Feinstein	Mitchell
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boren	Graham	Nunn
Boxer	Harkin	Pell
Bradley	Heflin	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Daschle	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Mathews	Wofford
Exon	Metzenbaum	

NAYS—48

Bennett	Faircloth	Lugar
Bond	Gorton	Mack
Brown	Gramm	McCain
Burns	Grassley	McConnell
Chafee	Gregg	Murkowski
Coats	Hatch	Nickles
Cochran	Hatfield	Packwood
Cohen	Helms	Pressler
Coverdell	Hutchison	Roth
Craig	Jeffords	Shelby
D'Amato	Kassebaum	Simpson
Danforth	Kempthorne	Smith
DeConcini	Kohl	Stevens
Dole	Lautenberg	Thurmond
Domenici	Lieberman	Wallop
Durenberger	Lott	Warner

NOT VOTING—2

Murray	Specter

So the motion to lay on the table the amendment (No. 508) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER addressed the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

AMENDMENT NO. 510

(Purpose: To create a mechanism to monitor and control direct spending programs)

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

The VICE PRESIDENT. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself, Mr. MITCHELL, and Mr. DODD, proposes an amendment numbered 510.

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

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. SASSER. Mr. President, I ask unanimous consent that following the disposition of my entitlement cap amendment, which I have just sent to the desk, Senator LOTT be recognized to offer his amendment striking the Social Security tax provisions, and that no other amendments be in order prior to the disposition of these two amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I will not, Mr. President, was the Senator not going to propound another part to this that would say we are limiting the time on our amendments to an hour equally divided instead of an hour on each side?

Mr. SASSER. I say to my friend that has not been discussed with me.

Mr. DOMENICI. I thought it had. Excuse me. Proceed. We will discuss it.

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

Mr. SASSER. Mr. President, in the next few hours, I will, in conjunction with others, offer amendments which I believe are crucial to enforcing the savings contained in the budget resolution and in the reconciliation bill.

Now, these three amendments that we will present will have as their thrust forming a bulwark against any possible savings erosion that we achieve in this reconciliation agreement.

They constitute a tough new system of spending controls. These amendments will prevent any of the spending cuts and new revenues contained in this reconciliation bill from being used for anything but deficit reduction. They will thoroughly ensure to the maximum degree permitted by statute that the $500 billion in savings is as thoroughly enforceable as anything we have ever seen in a budget statute.

Mr. President, over the past few months there has been a rash of misinformation and accusations about the President's economic plan. We have heard insinuations that new revenues will not go toward deficit reduction. We have heard accusations that billions of dollars earmarked to reduce the deficit would somehow lose their wings and end up in new spending programs. In fact, we have even heard assertions, which I can only characterize as ridiculous, that the Clinton economic plan will not lower the deficit at all.

I think it is extremely important that we lay to rest these charges and fears, important that the American people and the financial markets know that we are serious about deficit reduction, and that the savings we are making in this reconciliation bill will be locked into law; they will be enforceable; they will happen.

The amendments that we are proposing will do just that. Although the budget resolution already contains spending restraints and points of order, our amendments, like a redundant safety system, will codify the statute—those points of order with additional points of order, as well as sequestrations. One of the amendments does so by extending in three ways the appropriations caps and the pay-as-you-go discipline.

First, it continues the controls enacted in 1990 on the discretionary spending accounts enforced through sequesters and points of order.

This amendment will maintain one single cap, a lid, if you will, Mr. President, on discretionary spending for fiscal years 1994 through 1998.

There is absolutely, I submit—some will say, well, yes, yes, we are for maintaining a lid on discretionary spending but we want to have a separate lid for military spending, spending on foreign aid and other matters, and then a separate lid for domestic spending. This is the so-called walls theory. There is no reason to maintain walls now in 1994 through the length of this agreement, the length of this reconciliation instrument. There is no need to retain walls anymore.

I know there are some Senators who welcome the return to the walls system. However, with the end of the cold war, there is absolutely no reason to grant special protection to military spending, there is absolutely no reason to grant special protection to spending for foreign operations or foreign aid. The privileges and treatments awards that these two accounts have had have long outlived their usefulness. It is time that our budget process reflects the world that we live in.

I also believe that most Americans want military spending, as spending for foreign operations, foreign endeavors, foreign aid, to compete on an equal plane against domestic spending, on a fair and unbiased basis. It is time that we had a level playing field in the so-called discretionary accounts that include military spending, spending for domestic needs, and spending for foreign needs, and that they compete fairly and equitably one with the other and not have an artificial wall that prevents commingling of military funds and foreign aid funds.

Second, I think perhaps more importantly, the amendment extends the pay-as-you-go system. Pay-go, as we have come to shorten it, ensures that new entitlements and tax legislation will have to be deficit neutral. As with the appropriations cap, the pay-go system is enforced by sequestration.

Third, and, last, this amendment adjusts the balances under the pay-go

system to ensure that the savings achieved by the reconciliation bill cannot be spent. In other words, if we enact this proposal that I am laying out now, savings that accumulate under the reconciliation bill, someone could then not run in and try to spend them on some other program no matter how well meaning or well deserved that program might be.

As I just noted, the pay-go system will prevent entitlements and tax legislation from adding to the deficit. But unless we wipe the slate clean after enacting this bill, the pay-go system will have a large credit balance available for spending. This amendment will ensure that the savings in this bill simply cannot be spent. And again, the enforcement is both points of order and sequestration written into statute.

Mr. President, I believe there is an amendment which all Senators—Democrats and Republicans—can agree upon. All who are interested in reducing the deficit, all who are interested in having an enforceable agreement, all who are interested in seeing the total $516 billion in this President's plan go to reducing the deficit, I think that they will support this.

To my knowledge, it is still virtually all of the enforcement arguments from both sides of the aisle into one simple and resilient set of constraints. And it ought to be able to win bipartisan approval.

Of course, some of my colleagues may seek even greater restraints beyond the savings achieved here. But, frankly, they cannot muster, in my judgment, a supermajority for cuts beyond those already in the President's budget plan. No one should be under the illusion that the amendments offered here are weak. They are as strong as anything yet written into statute.

Mr. President, I cannot imagine anyone opposing this amendment. Given its nonpartisan nature, I would be at a loss to come up with any rationale for opposing this. Oh, I suppose there might be some who might have some cynical desire to weaken this entire package by weakening its enforcement so that the argument can be made that it is not strong enough. But I hope that that sort of cynicism does not crop up here on the floor of the U.S. Senate today. Let us hope for the good of the American people that we can rise above such partisanship and pettiness. I think we all want to see the deficit reduced.

As I previously mentioned, this amendment forms the trunk of deficit reduction enforcement and from this trunk two sturdy branches can grow.

The first of these would create a deficit reduction trust fund. This is a simple concept. It is well known, one which has been endorsed by the President, one that has been endorsed by the Senate. And our good friend and colleague, Senator DECONCINI, led the fight for the trust fund during the consideration of the budget resolution and the Senate wholeheartedly endorsed this DeConcini trust fund amendment by a unanimous vote, and he will be offering his amendment here today very shortly.

The reconciliation bill, as amended, would require a transfer from the general fund to the deficit reduction trust fund of an amount equal to the deficit reduction that the budget resolution requires Congress to achieve in reconciliation.

This amendment ensures that not a dime of the money in the trust fund can be spent. Rather, it must be used exclusively to redeem securities previously issued by the Treasury.

The other branch of this growing out of this sturdy trunk of enforcement provisions is essentially the Senate's answer to the entitlement cap procedures incorporated in the House reconciliation bill.

The amendment takes entitlement programs off of autopilot and provides yet another safeguard to check rising entitlement costs. It ties direct spending growth to the levels in the budget resolution.

Many Senators justly complain that entitlements continue unchecked, that entitlement spending continues unrestrained. And they observe that Congress must annually address appropriate spending. But they also state accurately that entitlements escape scrutiny.

This amendment will force annual review. The amendment will enact in the statute direct spending targets that cannot be exceeded without the President's acquiescence and a vote by the Congress allowing the overage. This amendment will require the President and the Congressional Budget Office to perform an annual review of direct spending and receipts. If spending exceeds the targets, the President must propose how to address the overage, and Congress must then vote on that proposal.

I believe my colleagues will find this amendment incorporates the formula approach previously built into other entitlement caps, such as the one offered by Senator DOMENICI and Senator NUNN on previous occasions.

We have changed the cap structure in such a way as to allow for more flexibility. The controls can, therefore, be used in a far less constraining fashion, while still enforcing an annual spending review and a vote on any excess. The concept of this flexible restraint will become crucial later on in this session when the Senate turns to health care reform. It will allow a free and full consideration of health care reform, without prejudging what shape the final package will take.

Mr. President, we already have an excellent deficit reduction package contained in the budget reconciliation bill, in addition to these amendments, safeguarding the bill's spending disciples that provides the ironclad deficit enforcement that we think people want.

These amendments will hold the line on spending and provide tough new procedures to contain the entitlement programs. In these amendments, all Senators will have an opportunity to vote to lock in deficit spending or to lock out deficit spending. I trust we will not let that opportunity slip through our fingers.

Mr. President, we will be offering the amendments I have just discussed in the following order: We will first consider the entitlement constraint amendment. At a later point, I will lay down an amendment that imposes the discretionary caps and extends pay-go.

Let me be clear about that. The amendment we vote on next will be our own variation of the entitlement cap construction passed by the House during their consideration of the reconciliation process.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. SASSER. I am pleased to yield.

Mr. PACKWOOD. I am interested in the enforcement cap. I want to know how this varies from the House. Let me explain the way I think the House one works, and you can explain it.

As I recall the House entitlement cap, you project it on a baseline, basically, and then you said if the entitlement increased by more than 0.5 percent above the baseline, the President had three alternatives, and he had to do one: He had to raise taxes; cut spending; or suggest that we were going to do nothing and, in essence, raise the debt ceiling, I assume.

Do I have the House one correct?

Mr. SASSER. Well, as I understand it, the Senator is essentially correct in how he has stated it.

Mr. PACKWOOD. Congress would have to act on it, but if the choice was just to raise the debt ceiling, we could do that. How does yours differ from the House's?

Mr. SASSER. Well, we have built in a larger revenue cushion than the House has, for example. They, as I understand it, have a 0.5-percent revenue cushion. We have a 1-percent cushion, and they have a 0.5-percent cushion. But beyond that, there is not a great deal of difference.

Mr. PACKWOOD. It is not so much a revenue cushion, as I understand it. You take all of the entitlements. I assume, like food stamps——

Mr. SASSER. It is an entitlement growth.

Mr. PACKWOOD. Food stamps, unemployment compensation, Social Security and Medicare, all entitlements. Social Security is reasonably predictable; we should not miss our prediction on that very much. So probably to go over in the House—at least 0.5 over—you are probably either taking a guess

that there is going to be an emergency unemployment situation, or health care costs could go up and up.

Mr. SASSER. I say that the Senator is correct. In all likelihood, it would be the health care costs that would drive it up. In the event of a severe economic downturn, the unemployment situation——

Mr. PACKWOOD. Considering the payout of Social Security and Medicare and Medicaid, it would have to be a whale of an unemployment downturn to drive it up. Your figure is 1 percent. Theirs is 0.5 percent.

Mr. SASSER. I make this point. Social Security is excluded.

Mr. PACKWOOD. OK. That is fine, because in terms of the predicting, that is so predictable, you did not have to worry about it anyway. So if all of the collective entitlements exceed 1 percent of the projection, then this enforcement mechanism goes into effect, and if it is like the House, the President first has to act, and he has to make findings as to why we are above it; and then he says, "Here is the way I suggest we handle it," and he has three choices: "I suggest we raise revenues; I suggest we cut spending."

But the House says they could cut appropriated spending——

Mr. SASSER. We do not allow cutting of appropriated spending.

Mr. PACKWOOD. It is within the entitlement then. The President could say: "I think this is great enough, and I suggest that we borrow the money and raise the debt ceiling." He could say that, and we would have to act on it?

Mr. SASSER. The Senator is correct. The President has three options. And if he said we want to go ahead and borrow the money to do it, then the Congress would have to acquiesce in that. We would have to actively vote on it.

What we are trying to do here—as the Senator, I think, has very skillfully pointed out—is we are trying to establish some responsibility and oversight over the role of entitlements.

Mr. PACKWOOD. Assuming we wanted to borrow the money, could we meet the qualification by simply increasing the debt ceiling? Would that satisfy this requirement?

Mr. SASSER. No. You would have to have a separate vote on it.

Mr. PACKWOOD. I thank the chairman very much.

Mr. SASSER. I thank the Senator. Let me just say I am going to go ahead and explain this further, but the distinguished Senator from Oregon did an excellent job of explaining it in his questions. I thank him for that. Let me make just a few more explanations here.

Mr. President, the amendment really takes entitlement programs off auto pilot and requires the President and Congress to take responsibility for their growth. I believe that most of my colleagues would agree that if we are to have serious and credible deficit reduction, we must first find some way to discipline entitlement spending. As my friend from Oregon pointed out, we must find a way to discipline it in the area of health care, particularly.

I personally believe that the only way to do that is from the ground up, a restructuring or reforming of this country's health care system. A simple top-down cap will not address the causes of the problem.

If you try to just put a cork in the bottle of health care spending on the part of the Government, and Medicare or Medicaid, or in the veterans hospital system, what you are going to find is that the pressure is going to blow the top of that cork out of the bottle, because, as the rest of health care costs go up in the private sector, it is going to inexorably drive up health care costs that the Government has to buy and pay for.

So you cannot just look at it from the point of view we have to fix the problem of exploding health care costs just by limiting the amount the Government is going to pay for health care, because, if we do that, these health care costs are going to be transferred more and more out into the private sector. We are going to find more and more people are uninsured as health insurance premiums go up, up, and up. We are going to find more and more people are being turned away by physicians and hospitals who simply will not honor Medicare or Medicaid applicants because the programs do not pay enough. So, a top-down gap is not going to solve the problem. We need to have an overall ground-up reform.

But having said that, a flexibility restraint that ensures general control by allowing for fundamental overhaul is preferable, I think, to mindless caps that would dictate unspecified and unachievable Medicare and Medicaid cuts.

Still it is true that Medicare and Medicaid that would provide benefits by formula are not subject to yearly congressional oversight. Congress annually reviews appropriated spending, but entitlements escape any serious scrutiny. Over the next 5 years, 90 percent of all entitlement program growth will be to Medicare, Medicaid, and Social Security. The Congressional Budget Office baseline projections show growth in this sensitive and necessary support program to be a staggering $281 billion. Of this growth, these three programs account for a whopping $253 billion. So it you break it down even further, just two programs, Medicare and Medicaid, account for $180 billion.

Once again, the cost of health care is the issue. The President will soon propose and Congress will soon consider comprehensive health care reform. This crucial legislation will be the only sensible and realistic way to deal with long-term problems of health care costs. The reconciliation bill already contains unprecedented reductions in Medicare and Medicaid, reductions that I find very difficult to swallow and support very grudgingly, and I think that is the attitude of many of my colleagues here today. But support it we must if we are going to have deficit reduction.

The President has proposed serious deficit reduction, particularly in health care entitlements, $56 billion in health programs savings over the next 5 years. This bill adds another $19 billion in cuts for a total of $75 billion in Medicare and Medicaid, principally Medicare, over the next 5 years. In the context of this historic amount of deficit reduction in the reconciliation bill, it might be useful to point out that this is six times the savings that President Bush proposed in his last budget. As large as the President's cuts may be, more is needed to bring entitlement costs under control.

Our colleagues in the House took a step last month when they passed an amendment requiring Congress and the President to address annually unanticipated entitlement growth through an annual review process. They are to be applauded for their initiative, but in my opinion the amendment before the Senate improves upon the House language.

Let me just once again briefly outline what our amendment does.

First, it will enact into statute direct spending targets reflecting the levels set forth in the budget resolution. In this regard, the President will make annual adjustments for a number of factors, notably growth in population and inflation, variables that are also part of the formulas used in the entitlement cap proposals earlier offered by Senator DOMENICI and by our esteemed colleague, Senator NUNN.

Second, it will require the Congressional Budget Office and the President to review direct spending and receipts every year. If spending exceeds the targets, the President must propose to address the coverage.

Our friend, the distinguished ranking member of the Finance Committee, has grasped this very quickly, but I am running over it again simply because others of our colleagues who might not be as familiar with these procedures with entitlements need to hear this in order to get themselves more familiar with it.

Third, the amendment ensures that Congress must act on the spending overage. The majority leader must introduce a budget control resolution implementing the President's recommendations, and then that resolution is referred to the Budget Committee. If the Budget Committee chooses, it may address the overage in a separate title of the budget resolution. However, if the committee fails to report out such resolution by April 1,

then the President's budget control resolution is automatically discharged from the Budget Committee and the full Senate must vote on it by May 1.

So, the Budget Committee cannot just sit on it. If we do not act on it, it is automatically discharged out here to the floor and the full Senate must work its will on it. Now, if the Budget Committee does report a budget resolution to address the overage but the Senate fails to adopt it by June 1, then the Budget Committee is automatically discharged of the President's budget control resolution and the Senate must vote on it before July 1, So it requires that the Senate must vote, and there is no dodging this issue.

Again, my colleagues will vote that this amendment incorporates some of the formula approaches built into the previous entitlement caps, but there are some distinct differences which, in the bill, make our amendment, I think, more attractive than other entitlement caps.

Under the amendment, if the limits on entitlement growth are breached, specific program proposals would be required to slow spending growth. This amendment does not rely on a mechanical, unthinking sequester mechanism which forces across-the-board cuts in programs without regard to policy constraints. We have tried that approach. We have tried it in Gramm-Rudman-Hollings, and it simply does not work. It does not happen. We find countless ways—Congress, the Office of Management and Budget, various administrations find countless ways—to avoid these automatic across-the-board cuts in programs that come about regardless of policy considerations.

So ours is not the type of unthinking mechanical sequester. I for one have never understood, for example, the rationale for cutting veterans programs, cutting child support or even cutting farm price programs simply because health care costs are going through the roof. It just does not make sense that the veterans should suffer or the children should suffer or that our farmers should suffer simply because health case costs are going through the roof.

The flexibility of the constraints in this amendment will most benefit the upcoming debate on health care reform.

Under competing entitlement cap proposals, the only way comprehensive health care reform could be accommodated would be through 1-to-1 corresponding cuts in all entitlement programs. In effect, we would be locked in a policy box with no options. There would be no way to provide for reasoned policy tradeoffs. There would be no way to provide for cost containment incentives, for examples, on the revenue side of the ledger.

However, this amendment allows for a full and free consideration of health care reform without prejudging the final shape of the program. Under our amendment, if health care reform is passed, it is fully paid for under the pay-as-you-go system. The direct spending limits would be adjusted to accommodate the new program.

Mr. President, I think this amendment stands out as a compelling choice, the only choice among all the entitlement cap proposals. Once again, it ensures that entitlements are both constrained and subject to annual review. Yet it is flexible enough to allow for full consideration without prejudice of crucial programs such as health care reform.

I believe that is a winning combination, Mr. President, that deserves the Senate's support.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all, let me congratulate Senator SASSER on the effort he is making here.

Frankly, I am having a great deal of difficulty finding out what this really does, but I think I will have it kind of patched together here in the next 20 or 30 minutes, and maybe I can make some sense out of it for myself and perhaps share that with my fellow Senators.

First of all, let me make sure that the Senators on our side, be they here or be they listening—we only have now on the entire bill, I say to Senator PACKWOOD, we have a total of a little over 7 hours for both sides. Under the requisite rules, we will get no more than half of that, and it will be shared among amendments under the current situation, an hour on each side on an amendment and half an hour on a second-degree amendment.

We are hoping to get that reduced after this vote to an hour, equally divided, thus giving more time.

On our side, we have now succeeded in getting the next amendment to be in order. It will not be subject to amendment. It will be the Lott amendment to strike the Social Security tax.

After that, we intend to have at least two highly preferred amendments on our side. One will have to do with a Wallop amendment on small business and the Tax Code and another will have to do with tax on airlines.

From that point on, we will be working together to see how many amendments fit under the normal sequence and the normal time allotment.

Some Senators want to speak and have not been able to. I do not think we need all the time on each amendment, either myself or Senator PACKWOOD, and, therefore, if someone wants to use some of our time on amendments to express their views on what has been going on yesterday and today, we will try our very best to accommodate them.

Having said that, I understand that the other side, the Democrats, have their agenda here on the floor and their policy issues that they want to get up, and we will all be trying to follow the rules in that regard.

Now, back to the amendment. I just said I compliment the chairman and those in leadership on the other side for this 48-page amendment. I compliment the chairman for what he is trying to do.

But I must say to my friend from Tennessee that the thing that bothers me, and the reason that I tried to make a point yesterday that if you do not get the rising, spiraling cost of the direct spending programs—which is what we are going to now call them since that is what the chairman calls them; that is, all of the mandatory and entitlement programs that are not Social Security, because it is exempt—the problem is, if you do not get their cost under control and move that cost from where it is now, which is inflation demographics plus around 8 percent—and in some cases, in some immediate past years, has gone up 13 percent, some of those—if we do not cause that to come down, here is the dilemma for the budget for United States. You can tax the public $250 billion—and this red arrow saying the deficit is going back up is directly, directly the result of the uncontrolled spending on the direct spending part of this budget.

Now, having said that, let me tell the Senate what has happened in the past.

First, everybody is talking about the 1990 agreement. Actually, so there is no misunderstanding in terms of how big our budget cut proposal is, the chairman has been very, very specific about the grandiose nature of the President's package by saying it is the largest that any President has submitted. But let me remind everyone that a bipartisan group put together a $496 billion deficit-reduction plan in 1990—$496 billion. I would think one could say it is about as big as any we have had.

The end product, Mr. President, and fellow Senators, is that the entitlements programs that we are talking about right here, believe it or not, went up $221 billion—I repeat, went up $221 billion—over the estimates for those programs in that agreement—$221 billion.

Now, if this amendment does not really control and begin to reduce the costs of the entitlement programs and direct spending, we will not achieve significant deficit reduction, even after the $250 billion in new taxes.

So, Mr. President, I have a couple of questions of the chairman, if he would answer them now, or perhaps I could just state them and as he retorts to me he might answer them.

Where do you get the estimates in your bill for this entire package of direct spending on an annual basis? Where does it come from? Where does the number for 2 years now come from? What is it? Is it current policy? Is he expecting to happen exactly what is happening?

If that is the case, here you are. You have not cut anything. You have just said it will not go up. But if it does not come down, it breaks the bank, because it is the current policies of those programs, the current nature of those benefits, the current nature of that growth, that causes the deficit to go wild.

So where do those annual estimates come from?

Second, after you add demographics, new people, and inflation, how much are you allowing those programs to increase? That is very important because, if you allow them to increase as they are currently increasing but say there will be no more, the current increases are sufficient to turn this entire Presidential package from a deficit-reduction plan to a plan where the deficit is growing again.

So, how do you get the estimates for this package of direct spending?

I read somewhere in this bill that any future tax increases all go for higher spending. Now, maybe I am not reading it right. But I gather, after we finish this one big deficit package, that if we are going to have any more new taxes, they are applied to the direct spending programs to either pay for their increases or allow for even an increase beyond that to be paid for by taxes.

I am not at all sure that the American people, when they have this package of $250 billion in new taxes, are not operating off the assumption that, if we are going to have more taxes, they would go to deficit reduction in the future. We still have, under the President's plan, a $225 billion deficit at the end of 5 years; pretty big.

If there are going to be new taxes and it is going to go to direct spending to more programs, how is the deficit ever going to come down?

New concepts—which I imagine these are the words that will permit adjustments, I say to my friend, Senator PACKWOOD. There are certain things that will permit adjusting these numbers up, and one is new concepts.

What does that mean? Does that mean, if you come up with a new program or if you come up with a different way to handle Medicare that costs more, it is directed upward automatically? That is what I read into it.

Then, last but not least, to compare this approach which I have just reviewed—I understand only in a cursory manner—to the Domenici-Nunn, or Nunn-Domenici, it has a very big, big leap of faith. The only thing we have found thus far that controls spending, unequivocally and really, are appropriated caps that say if you break them, two things can happen. One, an across-the-board cut occurs, that is No. 1; and, if you want to increase them you have to get a supermajority to do it. That has been pretty good except for the last 3 or 4 months when this President uses the emergency clause to break them. The sequester, the threat of a cut, is what has caused Congress to sit up and say, "Uh oh, we do not want all the programs cut across the board. Let us fix something."

The Nunn-Domenici does the same thing in the out years, 1996, 1997, 1998, to this package of direct spending that my friend from Tennessee says is going to be brought under control by saying by that point in time you have reformed the system. And if the reform does not work and the costs go up, that program is sequestered and cut across the board. Giving Congress plenty of opportunity and the most effective way to correct the problem.

What we want to do is not cut the programs across the board, but to get some reform and changes which are desperately needed and that will work. I remind everyone, the fallacy in the 1990 agreement was we did not really try to control entitlements, the direct spending. As a result they went up $221 billion—most of it Medicare, I must say, and Medicaid, which were rising at many times the rate of inflation. In one case it was rising at 2.5 times the rate of inflation, after you put in new people.

My last observation is that it seems to me this is no stronger an enforcement mechanism than adopting a budget resolution every year. So let me see if I have it right. You are saying we are going to control this direct spending but next year in the budget resolution if you want to raise the amount you just do it in the budget resolution. If I am wrong on that, the Senator might correct me.

Frankly, that is what has been wrong all along. We just change the budget resolution the next year. What good is that going to do to the spiraling cost increases of the direct spending programs? What are we going to do, with a budget resolution looking out 2 years, if we say: Finance Committee, we have to reform health care, it is outlandish, it is still going up even after reform, we have to have some targeted kind of impact on that program and that is going to be tough? We are going to have 51 people vote for a budget resolution, it seems to me, that will raise those levels.

So in a very real sense I do commend the chairman for trying. But I do not believe it is nearly enough to say we are going to control the spending of entitlement programs to their current level and if they go above that then the President issues a report. We can get a report on our own, Senator PACKWOOD, on how much the entitlements are breaching the cap. We do not need the President. We can ask the Congressional Budget Office, they will tell us. So I do not know what that does except the President has to acknowledge it.

What happens if it is breaching the title? If it is going above the limit? What do we do? I do not see anything in this that says we will get them under control. I think what it says is we will raise taxes to pay for that increase, and that is precisely the entire premise and philosophy that Senator PACKWOOD so eloquently, yesterday, disposed of by saying the more you tax the more you spend, and it has been true. I believe that is what we are inviting here.

My closing remarks are—and this graph shows it as best you can—you cannot just let the entitlement programs grow as they are and say we are not going to let them—we are just not going to break that. They are going to keep on like they are but they are not going up any more. You do not get the deficit under control.

I think my friend, the comanager here, wants to speak, and I yield to him as much time as he needs.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Oregon.

Mr. PACKWOOD. I want to compliment the Senator from Tennessee, the chairman of the Budget Committee, for attempting to put enforceable caps in the bill. But I want to lay out a little bit, if I can, the problem we face, both as to the magnitude and then as the enforceability. We use the term mandatory programs, direct spending, entitlement programs. They all mean the same thing. They are basically programs which require the Federal Government to pay out money without any change in law. Social Security is one. When you are eligible for Social Security we do not have to vote anything for it. We do not vote any new taxes for it. We do not change the law. You just say, "I am 65, I worked for 30, 40 years. This was my salary. I am entitled to x amount of money." And you get it automatically.

The same with Medicare. The same with Medicaid, the Federal-State program of health care for the poor. The same with farm supports, unemployment compensation.

These so-called entitlement programs, direct spending programs—whatever you wish to call them—mandatory programs are the overwhelming part of all the money that we spend in Government. To so-called nonentitlement programs, or as we call them appropriated programs, are a relatively small part of Government. And we have to appropriate the money each year. Vote for it each year. Education is one. Defense is another. Environmental protection is another. Any moneys we spend for clean water and clean air, every year we vote for this.

The problem has come over the years that the mandatory programs, the direct spending programs, the entitlement programs, call them what you want, each year are becoming a bigger and bigger part of the whole.

I will take just four of the programs: Medicare, Medicaid, Social Security,

and then other Federal retirement—that is either civilian employees or military employees of the Federal Government. Just those four programs plus interest—and interest, I suppose, is the ultimate entitlement program. If you buy a bond and we say we will pay you 6 percent interest, we have to pay you. So those four programs plus interest, in 1963 were 24 percent of all of the money that the Federal Government spent.

I know the argument will be raised Medicare was not passed until 1967. I know that, it did not even count in 1963, but do not worry about that. We did not spend any money on Medicare therefore in 1963. But the programs were 24 percent of the budget. Then we enacted Medicare. The rest were already in law.

In 1973, this is 10 years later, instead of 24 percent of all the money the Federal Government spent, those four programs plus interest had leaped to 37 percent.

In 1983 they had leaped to 47 percent.

In 1993, they are 54 percent. And, 10 years from now, assuming no change in the law, we just continue to spend as we have been spending, they will be 69 percent of all the money that the Federal Government spends.

I might emphasize this is before any of the so-called baby boom has started to retire. The baby boomers were born 1945 to 1965, a tremendous explosion in our birth rate following World War II.

The first of those baby boomers do not retire, assuming they retire at 65, until the year 2010, and then you have 20 years of slow draw on the Social Security trust fund and the Medicare fund, assuming no change in law. We reach 69 percent of all the money that the Federal Government will spend will be spent on these four programs by the year 2003, before any of the baby boom has started to retire.

This is my prediction. I do not have a projection from anybody else but I would judge, by the year 2010, it will not be 69, it will be close to 75 percent, and 10 years after that closer to 80 to 85 percent of all the money the Federal Government spends if we do not change the law.

Herein comes the problem. If we are going to attempt to fund what we would regard as a decent amount for education, or defense, or environmental protection, and the whole is not growing fast enough—the whole—and if these entitlement programs are taking a bigger and bigger portion of the whole, then we do not have the money to spend on education, and defense, and environmental protection, and clean water, and highways, and airport safety, and everything else that we spend money on unless we increase taxes.

Then we get into the spiral that we have been in before: We raise taxes, we increase spending; we increase taxes, we increase spending. We do not narrow the deficit with the taxes. All of us who deal with the budget problem know how much the budget is growing for these entitlement programs, but they are very politically sensitive programs.

There is an axiom in politics: Social Security is like the third rail on the subway—touch it and you die.

Medicare, if you ever talk about reducing—and I should not say reducing; no one is talking about reducing, that is a mistaken word we use. What we mean is we are going to increase the rate of spending more than we thought.

For example, let us say we were spending $100 a year on a program, and we were projecting next year to spend $110. We then said, no, we are not going to spend $110, we are only going to spend $105. Many people would say that is a cut. I do not know any business that would say that is a cut. They would say it is a $5 increase. Those in Government say it is a $5 cut. When anybody talks about cuts in Medicare, Medicaid, and Social Security, they do not mean cuts; it is going to go up like that.

We all know, regardless of what you call it, that any touching of those programs is very politically sensitive and so we dance about it and attempt not to talk about it or do anything or pretend we are going to do something.

Now let us come to the enforcement mechanism that the Senator from Tennessee, the chairman of the Budget Committee, is attempting to pass. I want to say I congratulate him. Let us see how it might work. This year, the big four entitlement programs, Social Security, Medicare and Medicaid, and other entitlements, are about $840 billion, and those four are about 75 percent of all the entitlement programs. All the rest of them put together are about 25 percent.

So just for purposes of illustration—and I am off $100 billion, but I like to divide things by 10 easily—let us assume that all of the entitlement programs in the Federal Government are a trillion dollars. A trillion. And under the enforcement mechanism that the chairman is proposing, not significantly different from the House, but what somewhat, we estimate the cost of those programs each year in the future.

Social Security is easy to estimate. You know how many people are 65. You know how many people are going to become 65 next year. You know pretty accurately what the rate of inflation is for the year. You know how many are going to die before they get their Social Security, and it is relatively easy to predict what it is going to pay out. Likewise, it is true for other retirement programs. It is like any insurance program, actuarially, you can reasonably estimate it.

Medicaid and Medicare we are terrible at estimating. No matter how we estimate, the programs escalate more than we ever thought. They do not escalate at the cost of living, or at the cost of living plus 1 percent or 2 percent or 3 percent in the worst case. They were going 5, 10, and 15 percent above the cost of living each year. Anyone can realize, with that kind of an increase, it does not take long before it eats you alive.

Programs like farm supports are often hard to estimate. It is an entitlement program. They are entitled to certain payments for crops. Normally, the way it works is if the farmer is able to sell his or her product, produce for above the support price, then they do not take the farm subsidy; they just sell it on the market. When things are good for the farmers, the subsidy program is down. When things are down, they would rather have the Government buy it at a higher price than the market, so the Government buys it and then they go up.

It is the same as unemployment compensation. You are entitled to a certain amount of money. If employment is good and few people are applying for it, we do not spend much money. If times are bad and unemployment is up, we spend a lot of money, but it is difficult to predict what it is going to be.

Here is what the chairman's program, I think, would do.

Let us take this trillion dollars in entitlements and we predict what they are going to be. Let us say next year we predict a 10-percent increase, and that all of them put together are going to be $1.1 trillion. That is what we call baseline. Then the rule that the chairman proposes says if those programs next year exceed our prediction, if they exceed $1.1 trillion by more than 1 percent, that being roughly $11 billion, if they exceed it by more than that, then this enforcement mechanism goes into effect. And this is the way the enforcement mechanism works:

Let us say instead of the $1.1 trillion it turns out they are going to cost us $1.2 trillion. We are $100 billion over what we thought. Then the enforcement mechanism says we have to bring that spending down to the $1.1 trillion, or we are supposed to.

We have three alternatives as to how to get it there: The President can suggest we are $100 billion over, and I suggest out of the entitlement programs, not elsewhere, we cut $100 billion from the $1.2 trillion. That is going to make lots of people mad, and I assume we are not going to touch Social Security and other retirement programs. We are going to take it out of Medicare and Medicaid, he can say that. Or he can say, "That will be too heartless; I recommend we increase the payroll tax from 7 percent to 8 percent, so we have enough money to pay it and that is the way I would suggest we take care of it and we will spend $1.2 trillion, instead of $1.1 trillion."

Or he can say it will be heartless to cut the programs and it would be harmful to the business development of this country to raise the taxes, so I suggest we borrow it and we borrow the extra $100 billion, we make the deficit $100 billion bigger next year. He makes whatever recommendation he chooses. Congress has to act on it. We have to face one of those three alternatives if we choose to follow the law.

Here is where it bothers me when we do not have a constitutional amendment to compel us to do it. Any law can be repealed by a subsequent law, and even if we put in the law that we can only repeal it or we can only exceed this figure, if we declare an emergency and the President agrees, we pass a bill and it says this is an emergency, we do not want to cut the benefits and we do not want to increase the taxes and we do not want to really borrow the money—by law, we do not want to say we are going to borrow it. This is an emergency, pay it. That means we are going to borrow it. It means we lump it into our vote on the debt ceiling each year; when the debt goes up, we lump it into that and we borrow it.

But the biggest problem is this. I have used this example several times. In 1978, we passed, and this was a law—this was not a rule of the House or a rule of the Senate—this was a law, 18 words. It was passed at the suggestion of Senator Harry Byrd, of Virginia:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

It is 18 words, very simple. We will not spend any more than we take in. We passed this in 1978 and it did not have to come into effect until 3 years later. We got to 1980 and it became obvious we were not going to make it. So in 1980, we changed that law very slightly. We kept the same 18 words, but we added six new words in front of it:

> The Congress reaffirms its commitment that beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

By adding those words, it is no longer a binding law. It is just our commitment, our resolve, our intention, our hope, not the law. So that is the way we got rid of that law.

And that is the way we can get rid of any other law that says we are going to bind ourselves to spending. It is what we have done year after year after year in the past. I do not know how many resolves and speeches have been made on the floor that we are going to balance the budget. I do not know anybody who wants to unbalance the budget. But when it comes right down to the very tough decisions, we find one way or another to get around it.

I do not mean this in any way critically of the chairman of the Budget Committee. He is doing the best he can within the confines of attempting to do this by rule or by law. By rule, the House and Senate have separate rules that govern how we operate internally in our own bodies. But even rules can be changed. It is why 15 years ago I finally came to the conclusion we should have a constitutional amendment to compel us to balance the budget because I do not think we will ever get there without it. We may adopt the rules that the chairman of the Budget Committee is suggesting, and he will have some subsequent amendments that will deal with what we call the appropriated items.

But I do not want any of us to fool ourselves. Bear in mind that the entitlement programs—Social Security, Medicare, Medicaid, other retirement programs, food stamps, unemployment compensation, farm supports—are the overwhelming part of our budget. These are the automatic spending programs. These go on. If we never vote on a thing, they go on. All we have to do is vote to get the money somehow and that means borrow. And unless we change the public's entitlement to those programs one way or another, we will not reduce spending. And if we say that the biggest of them are off limits for all practical purposes, political purposes, whatever you want, we are not going to balance this budget out of farm supports or unemployment compensation.

So I admire the chairman. I have some questions, however, as to whether or not any enforcement mechanism we pass as a matter of rule or law would really work based upon past experience.

I have serious questions that any law we pass which says we are going to set up a trust fund and we are going to take the taxes we raise and they are going to go to the trust fund to pay off the deficit will work because that trust fund is just a law. And if, next year, we feel we have more urgent needs than paying off the deficit, we will pass another law that says we meant to put this money in the trust fund, but we are going to take $10 billion of it for defense or $5 billion of it for education or $15 billion of it for environmental protection, and that supersedes the law we passed last year.

I will close with some figures I have used before. The history of taxing and spending in the United States and all other major industrial democracies in the world is as follows: When taxes go up, spending goes up, and we do not narrow the deficit. In 1950, all of the governments of the United States—Federal Government, State governments, local governments, fire districts, cities, counties, water districts, school districts, all of the governments of the United States put together—taxed about 21 percent of the gross domestic product. So if we had $100 all in gross domestic product of the United States, all the governments taxed $21 of it. All of the governments of the United States spent $23 of it—23 percent. So we taxed 21 percent, we spent 23 percent, and collectively we had a deficit. Forty years later, all of these same governments are now taxing about 33 percent of the gross national product, and we are spending about 36 percent of it.

So over the 40 years, have taxes gone up rather significantly? Yes, they have. Has spending gone up rather significantly? Yes, it has.

Did we have a deficit 40 years ago? Yes. Do we have a deficit now? Yes. Has the spending been for some odious, immoral, unethical programs? Only if you define Social Security and Medicare and Medicaid as odious, immoral, and unethical. We have spent it on programs people like.

The bill we are now voting on—not the amendment that the Senator from Tennessee, the chairman of the Budget Committee, is presenting; the bill we are now voting on—is going to levy about $250 billion in new taxes. Do not worry about those being permanent. They will be.

In the bill itself, we reduce spending about $80 billion. So if this bill passes, we are going to have a potful of money left over that we have not spent, and we say we are going to apply that to deficit reduction. And in order to try to ensure that we are going to have a deficit reduction trust fund and in order to try to ensure that we do not spend this money in other programs, we are going to have enforcement mechanisms in this bill which will prevent us from spending more than we say we are going to spend.

But I would ask you to look at history, and see if you can find in our history or the history of any other industrialized democracy where they have ever narrowed their deficit when they increased their taxes.

Let us say the bill passes. It is now next year. The President is presenting his new budget and we now have $250 billion in taxes coming in over the next 5 years, most of it is uncommitted for the moment except to the deficit reduction trust fund. And in comes the Department of Defense saying: We have an international emergency that requires an immediate military response. We need an increase for airlift capacity. We need to urgently lease some ships and mobilize our Armed Forces overseas. In comes the Drug Enforcement Agency saying: Mr. President, narcotics are coming across the border in ever-increasing quantities. In comes the Immigration and Naturalization Service saying: Mr. President, in addition to drugs, illegal aliens are coming in and they are bringing in drugs. In comes the Department of Education saying: Mr. President, if we increase spending on Head Start, it will provide benefits 5 or 10 years hence.

We have this potful of money that we have not committed. Do you really

think we are going to say: Those are tough problems. We are sorry about the international emergency; those are tough problems. We are sorry about the drugs that are coming in; those are tough problems. We are sorry about the kids who do not have access to Head Start, but we are going to pay off the deficit with it.

It will never happen. It will never happen. And that is why, as much as I admire my good friend from Tennessee and the enforcement mechanisms—and I pray that they will work—there is nothing in the past that we have ever done which would ever give any indication they will work. And there is nothing in the past to indicate we will do other than spend any extra money we have.

That, very frankly, is why I am opposed to this whole bill, because it guarantees the taxes all right, and it guarantees the revenues. Do not worry about those. And then it says we will try to restrain the spending. And what we will end up doing is what we did with Senator Byrd's law which we passed in 1978, which said we had to balance the budget by 1981. We will get up to a showdown, and we will say it is more important that we spend than we save.

For those reasons, Mr. President, I will strongly oppose this bill.

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on our side, I want a minute, and then I wish to yield 10 minutes to Senator GRAMM. And I think that is all we need, Mr. President, on our side, depending on what the Senator wants to do. We would be ready to proceed.

Mr. SASSER. Before yielding that 10 minutes to Senator GRAMM, I would like to be recognized.

Mr. DOMENICI. Why not proceed, and then I will use a minute and yield to the Senator.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Oregon [Mr. PACKWOOD] for this very thoughtful—indeed, I would characterize it almost as a scholarly analysis—of the problems we have over the entitlement programs in this country.

The distinguished Senator from Oregon has served as both the chairman and the ranking member of the Senate Finance Committee so he is, indeed, very, very conversant with the growth of entitlement programs and the problems that we face in dealing with them.

Now, I think the Senator from Oregon is quite correct. There is absolutely no way we can guarantee that this particular provision I am espousing today to try to deal with entitlement spending will be effective. Indeed, there is really no way that we can guarantee any human endeavor will carry through over a long period of time.

Those who make laws can certainly change them. But what we are seeking to do, we are acknowledging the fact that entitlements are growing at a very fast rate. And the two that are really driving the overall growth are Medicare and Medicaid.

Social Security is part of the entitlement growth, but it is not really part of the problem because in our anguish over overall entitlement growth, we sometimes forget that some of the entitlements, like Social Security, actually bring in more than they pay out every year.

Social Security this year, if memory serves me correctly, will have about a $600 billion surplus. So the real crux of the problem is Medicare and Medicaid, and they account for about 85 percent of the entitlement growth.

What occurs now is they just continue to grow. Nothing happens. We pay the bills by operation of law. If we do not have the money, we go out and borrow the money and it is all going to matter.

What we are seeking to do here is, as the entitlements grow, if they start growing beyond the projections, then we are placing a burden on the President to deal with it. He cannot ignore it, or she cannot ignore it. They have to take some kind of action. They have three options. Then the ball is passed to the Congress, and we have to take some action. We cannot ignore it.

That is not to guarantee that we are going to take the action that would actually pay for the entitlement growth. That is not to guarantee we are going to take some action that would curtail the entitlement growth because there is really no stomach here very much for reducing dramatically Medicare and Medicaid payments. There is really no stomach here for raising taxes to pay for it. But, increasingly, there is no stomach for borrowing the money for dealing with the problem here. We have tried that. We have tried that over the past 12 years. And we now know intellectually and we are starting to feel it emotionally, that we are reaching the end of the road on this. Unless we start dealing with some of these problems and assigning priorities and making some of the tough choices, we are literally running out from under it. I think that is being felt in this body. I think it is being felt all across the country and perhaps accounts for the rise of such phenomenon as Ross Perot, for example.

So what we are saying here with this amendment is simply saying, look, we are not going to stand aside now and just let the things continue to grow and borrow the money to pay for them. We are going to have to face the issue. And we can face it in a number of ways. We can either curtail the program, we can raise the taxes to pay for it, or, if we want to, we can continue to borrow the money to pay for it. But we cannot just ignore it, sweep it under the rug, and forget about it as we have done in times past.

That is all I am seeking to do with this amendment.

My friend from Oregon said that he, over his years of service in this body, has become very skeptical that we will ever really balance the budget, that we will ever really be able to say no to some of these well-intentioned persons who come to us to meet some of these really very pressing needs of the country, both domestically and internationally.

That may be the case. A study of American history indicates that we have battled over these budgets now for over 200 years. I was just reading the other day about some of the campaign rhetoric in the 1932 campaign that pitted Hoover against Franklin Delano Roosevelt. Believe it or not, one of the greatest issues in that campaign was balancing the budget. They both took the issue to the people saying, if we will just balance this budget, we will do something about this depression.

We know now, at least economic historians tell us now, that President Hoover was going down the wrong track in trying to curtail Government spending and trying to balance the budget as the economy was falling over into the recession and then a deep recession. He should have been pursuing a countercyclical policy. At least that is what the economists tell us now. Interestingly enough, they were arguing about balancing the budget, the primary issue in the campaign of 1932. So it is something that will be with us, I think, as long as this Government is here, and it will be with any freely elected democratic form of government, I think, around the world. We see this same drama being played out in the industrial democracies of Western Europe and in other areas of the world.

Indeed, my friend from Oregon says he has gotten to the point that he thinks a constitutional amendment is the only way to deal with the problem. Well, I say to my friend, what happens if we pass a constitutional amendment to balance the budget and nobody obeys it? That will be, I think, the upshot of that, just as when we passed the Gramm-Rudman-Hollings with the automatic sequester. When we got right up to it, when we all stared at that sequester, there were very few, in either the executive branch of the Congress, that said, let us just stand back, let this thing work, and see what happens. I remember the countless meetings between myself and others, the distinguished ranking member of the Budget Committee, the distinguished member of the Finance Committee,

then OMB Director, Mr. Darman, other executives in the administration, trying to work out some way to avoid the sequester and put it off and deal with the problem.

So I just say to my friend from Oregon, there is another good-faith effort, and we are not going to be able to really make these tough decisions and assign these very difficult priorities until we have the will to do it. I think there is a will developing in the country and in this body to do it, and perhaps this particular entitlement cap provision will act as a catalyst in making that out.

I thank the Senator from Oregon for his very interesting and, I thought, very informative discussion here on the floor.

Mr. PACKWOOD. Mr. President, if I might respond just a moment, because the chairman of the Budget Committee has posed the ultimate question. He said, if we had a constitutional amendment and we did not obey it, what happens? Perhaps the Senator from Texas will refresh my memory. Was it Jackson who denied Justice Marshall's decision? He said, "Let him enforce it." I cannot remember what it was about.

But I suppose if we reach a place in this country where a court makes a decision, and the executive branch—the court has not the ability on its own to carry out the decision—if the President of the United States were to say in the face of a court decision that you had to do something, and he said, "I am not going to do it," and the court attempts to hold him in contempt, he says, "Fine, go ahead, I will not do it," then we have reached the end of democracy in our Government.

Eisenhower faced that decision in 1956 when the Court finally said the Little Rock schools were to be integrated by law, and then Governor Faubus says, "I am not going to enforce it," and he stood on the steps. And Eisenhower said, "I am going to enforce the law." He sent the Federal troops in to enforce the law.

If all this happened after we had a constitutional amendment, if this were the ultimate situation, I imagine that we would have reached the end of government as we know it. If we have a constitutional amendment that says you have to balance the budget and we write into law and the amendment, if necessary, to determine whether or not you are in balance, you then write into it a clause that says who has standing to sue so that you do not have every Tom, Dick, and Harry filing in every court in the United States, who has standing to sue, Governors, then you say the court will be allowed to have only one remedy. You can do this. That remedy is that if a court finds that the Government is in violation of the balanced budget requirement, the court may issue an injunction prohibiting spending. It does not become the budget director. He does not decide where to cut spending. It just says you cannot spend at all.

If we live by the laws, and if the President were to say, "I do not like that decision, I do not agree with that decision, but I will enforce it," and there will be no spending on Social Security, there will be no spending on Medicare, no spending on defense, I will make you this bet. In a month we would balance our budget because we would have everybody in this country at our doorstep complaining.

I think it would work. I think it would be enforceable. I think we would come to our senses. But if that is not enough to do it, then there is no hope. I mean, if we are going to obey a constitutional amendment and a court order, then do not worry about passing any rules or legislation here that says we are going to enforce it.

So that is why I think that is the only hope that something would work and that the pressure of the public, when we could spend no money on them at all, no grants for the States for their highways, you would have every Governor, mayor on our necks, every Social Security recipient, every hospital that we are not paying for Medicare down on our backs. I wager that we would balance the budget and jolly quickly.

I yield.

Mr. DOMENICI. Mr. President, I think the chairman wants to propound a unanimous-consent request that we have worked out.

Mr. SASSER. Yes. Mr. President, I want to return to the procedural issue that the distinguished Senator from New Mexico, the manager on the Republican side raised a while back with regard to the time on amendments.

The following unanimous-consent agreement has been cleared on both sides, as I understand it, and I will not propound it:

Mr. President, I ask unanimous consent that time for debate of any first-degree amendment be limited to 1 hour, and that time for debate on any debatable or second-degree amendment be limited to half an hour, each equally divided as under the Budget Act.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I will soon yield to Senator GRAMM for 10 minutes. But I want to make two points. This discussion was interesting to me because I will tell you in all deference to the chairman and his efforts here, as I read this the bottom line is that the only enforcement mechanism in this is that Congress cannot go on recess unless the overage is addressed.

Let me remind everybody that there is a statute in being right now that says there will be no recesses in the U.S. House, unless and until a reconciliation bill is passed. Let me ask this: Do you think that they are not going to go out for a Fourth of July recess? I mean, it is done. We will not have a reconciliation bill that has passed both Houses. I believe the ultimate is that there is no enforcement here.

Second, it is a floating cap. Each year in the budget resolution, I say to my friend, you can change the cap with immunity. That means 51 Senators can decide that we are not going to have an enforcement under this. With that, we will never get it enforced.

I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I am going to make a point of order against this amendment. And I am going to do it because, while it pains me to do so, I do not see this as a good-faith effort. Never have I seen so many pages and so much paper—48 pages—used to construct such a small fig leaf. This provision is aimed at confusing the American public and convincing them we are doing something that we are not doing.

Let me explain why. First of all, let me just take the limit on entitlement growth between 1994 and 1995, as an example. People back home were saying: Boy, this is like the budget constraint I face. This is the kind of decision I have to make when I am deciding whether to send Sarah to Texas A&M University, or to buy a new car, or to fix the leak in the basement. We are getting down to real business.

Listen to this constraint:

Between 1994 and 1995, unless we change the law between now and then, or pass a resolution altering the numbers between now and then, entitlement spending can grow by 8.1 percent, plus new spending for new beneficiaries, new spending for new programs, inflation, emergencies, new programs that are paid for, new programs that are not paid for, higher interest rates, more bank failures, other congressional action, plus 1 percent—all of that, unless we change our minds.

What happens if, in fact, we do not change our minds and entitlements grow faster than all of these things that we allow to grow? What happens is the President has to submit to us a proposal. We give him the option to propose yet another tax. I do not believe that Bill Clinton needs more excuses to propose new taxes. He is doing a great job on his own of doing that. He proposed we raise taxes. We can accept it or reject it. He can propose that we cut spending.

Well, all I know is, looking at this reconciliation bill, looking at his budget, that seems to me very unlikely.

Finally, he can propose that we simply borrow the money.

Well, where is the option we do not already have? The reality of this amendment is that this amendment came from the House. You had about 40 so-called moderate Democrats in the

House who wanted an excuse to vote for the budget. Originally they came up with a real proposal that would have set out a real entitlement cap, and here is how it would have been different: Their cap would have set out in law how much you can spend, and if you spend more than that, there would have been an automatic across-the-board cut. Then Congress and the President would have to do something to overturn it, and 40 percent of the Members could object to it and stop it from happening. That is a real proposal. That is real strength. That is a real constraint. But that is not what they ultimately offered nor what the House passed. Instead the House passed a fig leaf with the same objective as this proposal: create the impression that we are doing something when, in reality, we are doing absolutely nothing. We can increase spending by 8½ percent plus what we spend on new beneficiaries, new programs, inflation, emergency, higher interest rates, more bank failures, congressional action, plus 1 percent.

What else is there in the world that could happen? What else in the world could happen that is not one of these things that is listed? Emergencies, act of God—it is covered. Congressional action—it is covered. What else could happen to make spending grow faster than this? Maybe somebody is more clever than I and could figure it out. I see this as a teeny little fig leaf for people who want to deceive the people back home. They want to go back home and say, "I did something; we did something to control entitlements." Of course they are not going to say that unless we spend more money and unless we change our mind and unless there is an emergency, we are going to have limits.

Well, Mr. President, if we are going to do something, let us do something for real. This is not for real, and as a result I am going to raise a point of order and try to defeat it, because we have an opportunity on a bipartisan basis to do something real.

I am willing to vote for and support a real limit, and I think we ought to adopt it. We ought to have a real cap on entitlements. In our Republican substitute, the Senator from New Mexico offered real caps. Every Member of the Senate that is a Democrat, except one, voted against it. They had a chance to have real caps. Now they want to have caps that provide a fig leaf, and these are caps that bind unless we create new programs, new beneficiaries, unless we pass new laws, unless there is an act of God. I do not know of anything not covered here, except the Second Coming which would render our deliberations and this budget and everything else we do irrelevant.

Finally, let us go back to what our dear colleague from Oregon said about constraints. A mention was made of Gramm-Rudman, and I want to make a point here, not because I am the "Gramm" of Gramm-Rudman, but I want to remind people that Gramm-Rudman had the fate of diets that work. Diets that do not work, we stay with them; we feel good about them. Diets that do work, we cheat on, and finally we give up on.

I remind my colleagues that between 1985 and 1990, before Gramm-Rudman was effectively set aside by the 1990 budget summit agreement, we used Gramm-Rudman, with all of its imperfections, to reduce the deficit by 43 percent, and to reduce the size of the Federal Government relative to the private sector of the economy by 16 percent. But how is it different than this fig leaf?

It was different from this fig leaf, because, first of all, if you spent over the deficit targets there was an automatic cut in deficit spending. That was the law of the land, and Congress and the President would have to come back and reverse it. On two occasions the cuts were made, and we did not reverse it.

You had a 60-vote point of order in the Senate if you violated the deficit targets. So a determined minority could prevent you from violating it, and dozens of times they did that until finally after having cheated around the edges with the recession and the S&L bailout, it was set aside, and a provision was put into it to let the new President decide if he wanted to bring back the binding constraints of Gramm-Rudman. That new President turned out to be Bill Clinton. His first official act was to suspend fixed targets.

So Gramm-Rudman worked until it was killed. This provision could not work, would not work, and is not intended to work. This provision is intended to create an impression that we are acting when we are not acting, that we are making tough decisions when we are not making tough decisions.

Since I would like to see us make tough decisions, since we have already voted on real caps as part of the Republican substitute, and since they were voted down, I do not think we ought to confuse the American people into thinking that, having rejected the real McCoy, we are doing something by putting in a provision that will cap spending. I cannot imagine any act that is not covered that would prevent you from breaching them. And if you do breach them, the President can propose taxing or borrowing or spending cuts. All those options we have now. So I can see no objective for these many pages of text, 48 pages, other than the construction of a small fig leaf to allow us to confuse the people back home.

Let us either do something real or let us not do something. Let us not try to confuse people.

As a result, Mr. President, when it is appropriate with the timing and the time agreed upon I will make a point of order on germaneness against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder if we are ready to vote. I think if we have any time we could yield it back.

Mr. SASSER. I am sorry. I was distracted from the distinguished Senator.

Mr. DOMENICI. I did not inquire yet, but if I have any time I am prepared to yield it back if the Senator is.

Mr. SASSER. We are prepared to yield ours back also.

Mr. DOMENICI. Mr. President, I yield back the remainder of the time, if any, on the amendment.

Mr. SASSER. I yield back the remainder of time I have.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the pending amendment is not germane under the provision of the bill. Pursuant to section 502(b)(2) of the Budget Act I raise a point of order against the pending amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I move to waive title 3 of the Congressional Budget Act for the consideration of this amendment, the language of this amendment if offered as a part of an amendment to H.R. 2264, and language on the same subject matter—procedures to review entitlements—in the conference report on H.R. 2264.

The PRESIDING OFFICER. The question is on the motion to waive.

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.

Mr. SASSER. Mr. President, I yield back the time we have.

Mr. DOMENICI. I yield back any time we have.

The PRESIDING OFFICER. The question is on agreeing on the motion of the Senator from Tennessee to waive the Budget Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. PRESSLER] is necessarily absent.

I further announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—54

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

NAYS—43

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Roth
Cochran	Hatfield	Shelby
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thurmond
Danforth	Kempthorne	Wallop
Dole	Lott	Warner
Domenici	Lugar	
Durenberger	Mack	

NOT VOTING—3

Murray	Pressler	Specter

The PRESIDING OFFICER. On this question the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from Tennessee is ruled not to be germane.

The Senator from Tennessee is recognized.

The Senate will please come to order.

Mr. SASSER. Mr. President, under the unanimous-consent agreement, the next amendment to be considered will be the amendment of the Senator from Mississippi [Mr. LOTT]. However, I am advised that the Senator from California [Mrs. FEINSTEIN] has an amendment that is acceptable on both sides and she has requested to be able to explain the amendment to the Senate for not more than 1 minute.

I was wondering if the Senator from Mississippi would allow us to dispose of this piece of very short business.

Mr. LOTT. If I may inquire of the Senator from Tennessee, this is acceptable to both sides?

Mr. DOMENICI. Yes, it is.

Mr. SASSER. I am advised that it is.

Mr. LOTT. I have no objection at all.

Mr. DOMENICI. I thank the Senator.

Mr. SASSER. I yield, then, to the Senator from California for the purposes of introducing an amendment which will be accepted, and a 1-minute explanation.

I thank the Senator from Mississippi for his courtesy.

The PRESIDING OFFICER. The Chair asks the Senate to come to order so the Senator from California can be heard.

AMENDMENT NO. 515

(Purpose: Sense of the Senate regarding permanent extension of research credit)

Mrs. FEINSTEIN. 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 California [Mrs. FEINSTEIN], for herself, Mr. MOYNIHAN, Mr. BAUCUS, Mrs. BOXER, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BOREN, Mr. REID, Mr. EXON, Mr. FORD, Mr. LEVIN, Mr. CONRAD, Mr. DASCHLE, Mr. KERRY, Mr. SIMON, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRAMM, Mrs. HUTCHISON, Mr. PACKWOOD, Mr. MACK, Mr. STEVENS, Mr. THURMOND, and Mr. HATCH, proposes an amendment numbered 515.

On page 421, between lines 18 and 19 insert:

SEC. 8114. SENSE OF SENATE REGARDING PERMANENT EXTENSION OF RESEARCH CREDIT.

It is the sense of the Senate that the research credit under section 41 of the Internal Revenue Code of 1986 be extended permanently.

Mrs. FEINSTEIN. Mr. President, this amendment is presented with the cosponsorship of Senators MOYNIHAN, BAUCUS, BOXER, GRAHAM, LIEBERMAN, BOREN, REID, EXON, FORD, LEVIN, CONRAD, DASCHLE, KERRY, SIMON, and BINGAMAN on the Democratic side; and DOMENICI, GRAMM, HUTCHISON, PACKWOOD, MACK, STEVENS, THURMOND, and HATCH on the Republican side.

Mr. President, as Members on my side of the aisle know from our caucus, I have been very concerned that the research and development tax credits, which are so important to the biotechnology and high technology industries of our country, will not be funded this year. This credit is extended only from this July to next July, and no further. The credit is permanent in the House bill, as the President requested. This amendment would cite that the sense of the Senate is, for conference, that this research and development tax credit be made permanent.

It is an important tax credit. I have received letters from major technology firms which state the importance of these tax credits. I would like to make these letters a part of the RECORD.

I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SILICONGRAPHICS,
Mountain View, CA, June 21, 1993.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: It was a pleasure to see you last week when I was in Washington. In particular, I appreciate your continuing interest in facilitating the establishment and success of innovative and high-growth companies, which not only lead the nation in the development of technology, but also provide an expanding base of challenging and high quality jobs.

As I mentioned to you last week, I believe that one of the primary reasons for America's technological leadership is the consistent investment by U.S. companies in research and development. As you know, since 1981 the R&D credit has been extended and/or changed five times. While we are encouraged by the continuing interest of the Federal Government in facilitating research and development, its failure to make the R&D credit a permanent part of the tax code results in short-term planning, and penalizes those riskier projects whose development life may extend beyond what has become a "normal" two-years extension.

The normal R&D planning cycle at least two years. In looking at our research projects and their budget, a company such as Silicon Graphics will plan as if the incremental R&D credit were not in existence. It wouldn't be prudent to hire engineers and structure a spending program based upon a tax credit which could be changed midstream during the research program. Thus, we cannot budget for those very projects which the credit was designed to encourage.

This pattern creates a planning uncertainty which obviates the credit's intended benefits. As you know, we are fairly aggressive in our own R&D spending, committing approximately 12% of our revenues to research spending. Since the proposed R&D credit generally would add incentives only for our incremental spending above the prior four years' average spending, the failure to make this credit permanent services only to restrain spending on the most adventuresome projects.

As the system now stands, if the credit is implemented in a particular year, we will utilize it to the extent we can, and reduce our tax liability accordingly. However, the very purpose of the credit, encouraging companies to plan for and embark upon aggressive long term R&D, will not have been served.

Silicon Graphics will spend about $135 million on R&D this fiscal year. We will continue to innovate, and I'm convinced that our products will continue to be leading-edge. However, we depend on other companies, most of them much smaller than Silicon Graphics, for components, applications software, and complementary technologies. These smaller companies also are in need of every incentive available to put their best and brightest on the most innovative projects. A permanent R&D tax credit is as essential for them as it is for us. I urge you to give it your support.

Sincerely,

EDWARD R. MCCRACKEN,
President and Chief Executive Officer.

TANDEM COMPUTERS INC.,
Cupertino, CA, June 21, 1993.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing to express our support for a permanent R&D tax credit as proposed in President Clinton's Economic Plan. Tandem is primarily concerned that there may be efforts in the Senate opposing enactment of a permanent credit and to have a break in continuity. These two issues are fundamentally important to the competitiveness of high-tech industries.

Tandem strongly opposes any suggestions to let the credit lapse from July 1, 1992, to a subsequent date and believes that a temporary extension would be misguided. U.S. high-tech companies hold a strong R&D leadership position and your support is critical to guard against legislation that would adversely affect this position.

As you know, the R&D tax credit expired on June 30, 1992. President Clinton's Economic Plan includes a provision to provide both continuity and certainty by making this credit permanent effective from June 30, 1992. The House of Representatives has included this provision in its tax bill passed just before the Memorial Day recess. For the reasons below, we feel strongly that continuity and permanence of the R&D credit are key parts of U.S. tax policy which must remain in the final tax bill.

First, although previous R&D spending behavior cannot be changed, a break in continuity will cause high-tech companies, including Tandem, to rethink future R&D spending commitments. This is due to the negative earnings impact if a break in continuity is permitted. Although 1992 financial results for many companies have been reported, 1993 business plans are based on the assumption that there will be continuity for the R&D tax credit. This is well-founded given that the R&D credit has never had a break in continuity since it was originally enacted in 1981. Any break in continuity can have an impact on incremental R&D spending. R&D is a controllable expense both in amount and location. For example, high-tech companies when looking at their next incremental R&D project may reduce (or not approve) incremental R&D spending, or look in countries other than the U.S. to perform their next incremental R&D project.

Second, Tandem, like other high-tech companies, have been anticipating continuity of the R&D credit based on prior legislative patterns and consistent indications by the Clinton Administration and Congress. In this regard, Tandem continued in good faith to incur increasing levels of R&D spending in the U.S. during the last half of 1992 and during 1993. This was done with the understanding that it would take some period of time to draft and enact legislation extending the credit.

In addition, the time has come to not only extend this expiring provision but to make the R&D credit permanent. Foreign-based high-tech competitors which perform R&D in their home countries generally receive R&D tax benefits without the uncertainty of expiring effective dates, or the threat of breaks in continuity.

Finally, certain countries provide attractive financial incentives for newly created R&D jobs. Further, their economic development agencies actively and aggressively seek U.S.-based multinationals to locate R&D in their jurisdictions.

For these reasons, Tandem urges your continued support for enactment of the R&D credit with continuity and permanence from June 30, 1992.

I look forward to working with you in continued support of President Clinton's Economic Plan. Please do not hesitate to call me if you need additional information.

Yours very truly,

JAMES G. TREYBIG,
President and CEO,
Tandem Computers Inc.

GENENTECH, INC.,
June 22, 1993.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: As the Senate proceeds to vote on the Budget Reconciliation package, the views of the biotechnology and biomedical industries should be heard. In providing these views, I do so not only for Genentech, but as Chairman of the Biotechnology Industry Organization and the California Healthcare Institute.

We are supportive of the goals that the President has set out in the areas of deficit reduction and investment. As a result, we were pleased with the inclusion of a permanent R&D credit and a targeted capital gains provision in the House-passed bill. We were deeply disappointed, however, by the failure of the Senate Finance Committee to include these provisions.

Specifically, the Finance Committee version of an R&D credit is awful. It provides, for the first time since the credit went into effect in 1981, a gap in the coverage of the credit. Thus, biotechnology firms—who are, according to this week's Business Week survey, the most R&D intensive industry in the United States—will receive no R&D credit for any research and development undertaken between June of 1992 and June of 1993. Moreover, instead of extending the R&D credit permanently, the credit is only extended for one year. The cavalier treatment of R&D—the seed corn of our future industrial competitiveness—is short sighted, dangerous and wrong headed. What kind of signal will businesses have about the reliability of "permanent" government incentives when they are treated as an expedient political football? Our international trading competitors should be very pleased with this change.

The failure to include a targeted capital gains provision is similarly disruptive and counterproductive to our risky, entrepreneur-based industry. The increase in the tax treatment of capital gains added insult to injury. One is tempted to ask the Senate Finance Committee what ever happened to the notion of rewarding patient capital that leads to more jobs in the high wage, high skill industries?

Finally, despite your best efforts on deferral, the provisions pending before the Senate are still pointed in exactly the wrong direction. According to our understanding, the Joint Committee on Taxation has estimated that this "reform" will produce $250 million in revenue over 5 years at a cost of $2 to $4 billion in additional foreign investment. How can a provision that was motivated by a desire to address the real problems of run-away plants have been perverted to create an incentive to invest outside the United States? At this point, anything that could improve this provision would be a help, but frankly, the provision is so ill-conceived that it is all but impossible to cure it, unless it is deleted or the Administration is convinced to go to a straightforward income test. Short of those changes, any upgrading of the multipliers used in the Committee reported bill would be an improvement.

Thank you in advance for your advocacy on behalf of California's high technology industry. In the area of biomedical science and industry (biotechnology, pharmaceuticals and medical devices, including university and private sector researchers), about 150,000 Californians are engaged in trying to grow the California economy. Correction of the pitfalls created by the Senate Finance Committee in these three areas would be a great help to all of us.

Sincerely yours,

G. KIRK RAAB,
President and Chief Executive Officer.

SUN MICROSYSTEMS, INC.,
Mountain View, CA, June 22, 1993.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing to bring to your attention my deep concern regarding two tax act provisions being considered by the Senate Finance Committee, the Research and Development (R&D) tax credit and the Foreign Earnings Deferral provision.

As you may know, I have supported making the R&D tax credit permanent and was pleased that the House tax bill permanently extended the credit from July 1, 1992. Unfortunately, the Senate Finance Committee has not followed the House's lead. Their failure to make the Credit permanent singles out the Credit for the weakest treatment of any of the expiring provisions. Only extending the Credit for twelve months repeats the on-again, off-again tax policies that have plagued the Credit since 1977.

By making the R&D tax credit permanent, businesses such as Sun Microsystems will have the ability to make long term decisions, something that is all too often lacking in the current business climate. I would urge you to help lead the fight on the Senate floor to make the R&D tax credit permanent from July 1, 1992.

With regard to the Foreign Earnings Deferral provision, the current Senate language will be detrimental to the high tech industry. While it may not be possible to eliminate this provision, proposals to extend the base period for capitalization of R&D expenditures from three to five years would do much to improve this provision. By making this change, high tech companies would be able to more accurately value one of their most important assets, their technology. Indeed, the Foreign Income Deferral issue is of major importance to the long term health of both Sun Microsystems and the computer industry.

I welcome any opportunity to discuss these issues with you in greater detail. Thank you for your consideration and your support of our industry.

Sincerely,

SCOTT G. MCNEALY,
President and CEO.

INTEL INTERNATIONAL,
Santa Clara, CA, June 22, 1993.

Hon. SENATOR DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: The purpose of this letter is to express Intel's concerns regarding the Senate Finance Committee bill's treatment of the research tax credit. As you are aware, unlike the Clinton Administration proposal and the House bill, the Finance Committee bill extends the R&D tax credit for only one year, and only after a one-year gap. As indicated in the enclosed letter, which Intel and eight other companies sent to the authors of S. 666 (a bill that would extend the credit on a continuous and permanent basis, as well as improve the credit in other ways), Intel believes it is important that the credit maintain its continuity and be made a permanent part of the tax code.

The credit, over its life since 1981, has unfortunately experienced on-and off-again

temporary extensions, but even so, the credit has never suffered a gap in continuity. These limited extensions have made R&D planning, based on the credit, difficult. Based on the past and the expressed intentions of the Clinton Administration and members of Congress, it is reasonable to expect continuity would be maintained. Research efforts play a vital role in Intel, our industry, other high-tech companies, and the U.S. maintaining competitiveness in the world marketplace.

We urge you to address the issues of continuity and permanence of the research credit, if the opportunity to do so arises during Senate floor consideration of the Finance Committee bill. Your help in this important matter is very much appreciated.

Sincerely,

ROBERT H. PERLMAN,
Vice President,
Tax, Licensing and Customs.

AMERICAN ELECTRONICS ASSOCIATION,
Washington, DC, June 21, 1993.

DEAR SENATOR: As you can see by the attached position paper, the American Electronics Association strongly opposes the Senate Finance Committee's tax proposal in its current form. We believe the proposal discourages U.S. research and development, increases the cost of capital, and will not effectively create jobs in our industry.

We are particularly concerned by two actions by the Committee. One is the decision to reduce the Research and Development Tax Credit from a permanent credit—as proposed by President Clinton and approved by the House—to a one year extension. Equally troubling was the decision to extend the R&D Credit on a prospective basis. As you know, all of the other extenders were made applicable on a retroactive basis.

Secondly, we are greatly concerned by the Committee's decision to abandon the targeted capital gains provision for small growth companies. This provision is critical in encouraging long-term investment in emerging technologies. It is a key component of the Clinton economic agenda.

We believe there will be an effort to address these two issues on the Senate floor and strongly urge your support. For further information on AEA's efforts, please contact Ed Hatcher at 202-682-4457.

Sincerely,

J. RICHARD IVERSON,
President and CEO.

ELECTRONIC INDUSTRIES ASSOCIATION,
June 22, 1993.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: As President of the Electronic Industries Association (EIA), and as a member of the Council on Research and Technology (CORETECH), I am writing to bring to your urgent attention the fact that the R&D credit was not given adequate or fair treatment in the Senate Finance Committee's consideration of the legislation.

As you know, we strongly support a permanent R&D tax credit and were pleased that such a provision was included in the House tax bill. The Senate Finance Committee's proposal does not include a permanent R&D tax credit; it singles out the R&D credit for the weakest treatment of any of the expiring provisions. The Finance Committee's proposal does not allow for retroactivity of the expired R&D tax credit and only extends it for 12 months. This would revert R&D to an on-again off-again policy that has plagued this policy area since 1977.

EIA members were also pleased that the House tax bill included a provision to permanently resolve the 861-8 research allocation rules. The Senate Finance Committee's proposal reduces the deduction of domestic R&D to 50% in the context of a 12-month extension. The R&D community would only consider such a level acceptable if it was in the context of a permanent legislative solution. This level of deduction in the context of a 12-month extension would create a serious disincentive to R&D conducted in our country.

We all know that American R&D is vital to maintaining and enhancing our position in the global economy. A permanent R&D tax credit and a permanent solution to the 861-8 research allocation rules are important steps toward ensuring the future of U.S. competitiveness. At the very least, we ask you to give the R&D tax credit the same treatment as has been provided the other expiring provisions in the tax bill by making it retroactive to its expiration date of June 30, 1992, extending the R&D credit for 12 additional months, and increasing the deduction level in the temporary extension of 861-8 to 64%.

If you or your staff wishes to discuss this matter in greater detail, please contact Ms. Kim King, Manager, Government Relations at (202) 457-8787. Thank you for your consideration of this matter.

Sincerely,

PETER MCCLOSKEY,
President.

COUNCIL ON RESEARCH AND TECHNOLOGY,
June 22, 1993.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the Council on Research and Technology (CORETECH), I am writing to bring to your urgent attention the fact that the R&D community is very concerned about the treatment given to research and development in the Senate Finance Committee's version of the tax bill.

As you know, we strongly support a permanent R&D tax credit and were pleased that such a provision was included in the House tax bill. The Senate Finance Committee's proposal does not include a permanent R&D tax credit, and furthermore, it singles out the R&D credit for the weakest treatment of any of the expiring provisions. While other expiring provisions received two year extensions, the Finance Committee's proposal only extends the R&D tax credit for 12 months and does not apply retroactivity to the expired provision. This proposal would revert R&D policy to its sorry and checkered history of on-again off-again policies that has plagued this policy area since 1977.

The members of CORETECH were also pleased that the House tax bill included a provision to permanently resolve the 861-8 research allocation rules. The Senate Finance Committee's proposal reduces the deduction of domestic R&D to 50% in the context of a 12 month extension. The R&D community would only consider such a level acceptable if it was in the context of a permanent legislative solution. This level of deduction in the context of a 12-month extension would create a serious disincentive to R&D conducted in our country.

We all know that American R&D is vital to maintaining and enhancing our position in the global economy. A permanent R&D tax credit and a permanent solution to the 861-8 research allocation rules are important steps toward ensuring the future of U.S. competitiveness. At the very least, we ask you to give the R&D tax credit the same treatment as has been provided the other expiring provisions in the tax bill by making it retroactive to its expiration date of June 30, 1992, extending the R&D credit for 12 additional months, and increasing the deduction level in the temporary extension of 861-8 to 64%.

We hope you will do everything in your power to restore the unfair treatment given to R&D and to promote long-term stable policies that can lead to U.S. productivity and growth. These steps are the very minimum the Senate should do to send the signal to America's R&D community that the Congress wants American industry to continue to make investments that will spur innovation and economic growth.

Sincerely,

ROLAND W. SCHMITT,
Chairman.

Enclosure.

MEMBERSHIP LIST

Companies (26)

Abbott Laboratories
American Cyanamid
Apple Computer, Inc.
Bristol Myers Squibb
Cray Research
Digital Equipment
DuPont-Merck Pharmaceutical
Eli Lilly & Company
Genentech, Inc.
Glaxo
Hewlett-Packard
IBM
Johnson & Johnson
Medtronic
Merck & Co.
Millipore Corporation
Motorola
Pfizer, Inc.
Pharmaceutical Resources
Sandoz Pharmaceuticals
Schering-Plough
SmithKline Beecham
Southwestern Bell Corp.
TRW, Inc.
Upjohn
Warner-Lambert

Universities (42)

Brown University
Carnegie-Mellon
Cornell University
Drexel University
Duke University
GA Inst. of Technology
Harvard University
Indiana University
Iowa State University
Johns Hopkins University
Massachusetts Institute of Technology (MIT)
Michigan State University
North Carolina State
Northern Illinois Univ.
Penn State University
Purdue University
Rensselaer Polytechnic Institute
Rice University
Rutgers University
Southern Illinois Univ.
SUNY/Research Foundation
Syracuse University
Tulane University
University of California at San Diego
University of Florida
University of Georgia
University of Houston
University of Illinois
University of Iowa
University of Kentucky
University of Michigan
University of Minnesota
University of North Carolina/Chapel Hill

University of North Carolina/Gen. Admin.
University of Pennsylvania
University of Texas
University of Washington
Vanderbilt University
Virginia Polytechnic Institute
Washington University
Wayne State University
Yale University

Public/Private Assns. (5)

Assoc. of American Universities
C.B.E.M.A.
Electronic Industries Assn.
American Auto Mfrs. Assn.
Pharmaceutical Mfrs. Assn.

Research Institutes/Consortiums (3)

BELLCORE
MCC
Semiconductor Research Corp.

Affiliates (5)

Brandeis University
Council on Competitiveness
Industrial Research Inst.
National Biomedical Research Foundation
NEC America, Inc.

R&D TAX CREDIT: PROVIDING AN INCENTIVE FOR AMERICAN INNOVATION

Recent analyses and news reports have indicated that U.S. research and development spending is on the decline and, in fact, that industrial spending in Japan has, for the first time, topped U.S. industrial spending. Now, more than ever before, all sectors of the U.S. research community must make a commitment to maintaining our national research base and international technological leadership.

To that end, promoting American innovation is critical. If we, as a nation, are to enhance our domestic economic situation and international standing, we must encourage the U.S. research community to continuously invest more in R&D. One of the most significant steps Congress could take to help the U.S. research community meet this challenge is to make the Research & Development (R&D) tax credit permanent once and for all.

Background—The R&D tax credit was credited in 1981 as part of the Reagan Administration's first tax package. The R&D tax credit provides an incentive for companies to increase their spending on R&D because companies are only eligible for the credit when they increase their R&D spending above a certain threshold of previous spending.

As originally passed, the R&D credit was a 25 percent incremental credit extending through 1985. Over the years, the credit has been temporarily extended many times, and has been changed as well. In 1986, the credit was extended, but the rate was cut from 25 to 20 percent. In 1988, the credit was extended for one year. Again, in 1989, Congress extended the credit for one year at a nine-month value, but made changes that increased the incentive effect for established as well as start-up companies. In the 1990 budget reconciliation bill, the credit was extended again, this time until December 31, 1991. At the end of 1991, legislation was enacted to extend the R&D credit for six more months, through June 1992. The credit expired at the end of June 1992 and has not been extended.

University basic research credit—Since 1981, the R&D tax credit has included a companion incentive provision, the university basic research credit. The basic research credit facilitates the commercialization and marketing of new ideas by encouraging corporate and academic collaboration. Under the credit, companies receive a 20 percent tax credit for grants, contributions and contract payments (above a certain fixed base amount) that are paid to colleges, universities and nonprofit research institutes for basic research. This credit also expired at the end of June 1992 and has not been extended.

The need for a permanent credit—The full incentive effect of the R&D tax credit can only be realized if the R&D credit is made permanent. Despite the fact that legislation calling for a permanent extension for the R&D tax credit has received strong bi-partisan support during the past three Congresses, last minute fiscal constraints have repeatedly forced only short-term extensions.

This legacy of six and nine month extensions runs counter to the nature of the research enterprise. R&D projects are long-term in nature, often spanning 8–10 years. Without permanence, research planners are reluctant to rely on the R&D credit because they have no guarantee that the policy in place at the beginning of a project will be in place at the end of a project. A permanent R&D tax credit will enable the research community to make plans today which will ensure future economic growth.

The effectiveness of the R&D tax credit—Economists Martin Baily of the University of Maryland and Robert Lawrence of Harvard University have found that tax incentives have a very strong effect on R&D performance. For example, in a study released on January 28, 1992, Baily and Lawrence report that the ratio of R&D spending to output went up over 40 percent in the 1980s when the R&D tax credit was in effect. During the time when the R&D credit had its maximum impact (1982–1985), company funded R&D had the highest growth rate (8.1% annually) of any four year period between 1960 and 1990.

The R&D tax credit gives U.S. companies a 20% credit for increases in R&D spending over an historical base. Baily and Lawrence estimate that the current R&D credit, if made permanent, would increase R&D spending by $25.7 billion over a five year period.

New legislation, S. 666, has been introduced that will not only make the credit permanent, but the legislation will also increase the incentive effect of the credit by improving its provisions. Key improvements made in the new legislation include: (1) allowing the credit to have an incentive effect on virtually all R&D budgets by improving the alternative minimum tax offset provision; (2) liberalizing the base period rule to strengthen the credit's effectiveness; (3) revising the basic research credit to strengthen its effectiveness; (4) providing a flat rate credit for small businesses; (5) providing incentives to encourage cooperative research efforts; and (6) priority assistance for companies impacted by defense conversion.

Mr. LIEBERMAN. Mr. President, I rise in support of this resolution to put the Senate on record as favoring a permanent R&D credit. Research and development is directly linked to the survival of our Nation's most critical industries—electronics, biotechnology, aerospace, and defense to name a few. If companies in these industries cannot do R&D in a timely and sufficient way, they will fall behind. Ultimately they will fail. The R&D tax credit is an important tool because it gives companies real additional financial resources to begin or to accelerate a project that is worthy but can't be done with limited resources. Since research can't be turned off like a light switch, corporate managers need to know that financial resources will be available over time. This is precisely why the R&D credit should be made permanent.

There are a few points that should be considered in the debate on the R&D credit.

First, people not machines produce bright ideas. When we talk about R&D, what we are really talking about is people. That is to say people with R&D jobs. The incentives to encourage more R&D are really incentives to employ more people to engage in R&D. More than 70 percent of qualifying expenses for the R&D tax credit go for the salaries of researchers and technicians.

In today's high-technology world, R&D does require more expensive and more complex equipment. The workbench of an electrical engineer or a computer scientist is vastly more capital-intensive than 20 or even 10 years ago. But the most advanced engineering work station can't produce anything unless someone is there to operate that work station.

Second, teamwork is key to R&D success. Today's scientific research is characterized more by extensive teams cooperating on solving complicated problems and less by eccentric individuals working on exotic equipment in rarefied attics. And today's breakthroughs are less the legacy of luck or a silver bullet discovery and more the outcome of hours of hard, concentrated work by teams of dedicated researchers.

Third, good R&D must be timely R&D. In addition to the natural aggravation of trying to discover the unknown or find the right combination of factors to make something work, researchers today also face the pressure of time. R&D in a corporate setting is not an intramural sport, it is big time athletics. What counts is scoring first and scoring most often.

Fourth, financial pressures shape the R&D agenda. In any economy, but particularly in the tight one we are in today, U.S. corporate managers must take economic factors into account. In today's belt-tightening environment, R&D budgets are increasingly under scrutiny and at risk of cutbacks.

Put simply, R&D is critical to the success of leading edge businesses. Without R&D these leading edge industries would not exist, let alone prosper.

The role of R&D in our industry and worldwide has changed dramatically and will undoubtedly change even more. We have already seen changes—R&D is more intensive and subject to growing pressures of time and financial expectations. It is becoming at once more capital-intensive and more labor intensive as team approaches are needed to break down and resolve huge, complex problems.

These are but a few of the reasons we need to enact a permanent R&D credit. While the Senate Finance Committee has gone part of the way with a temporary extension of the credit, we need to signal our desire to go further. I urge my colleagues to join me, and the Senator from California, in supporting this resolution.

Mrs. BOXER. Mr. President, permanent extension of the R&D credit is crucial to the research-intensive industries of California and of this Nation.

The R&D credit is about competitiveness in the world economy. California's companies, and companies around this country, are struggling to compete with foreign competitors that receive Government subsidies and large tax-breaks. Every day, companies face foreign market barriers while their competitors have open access to the U.S. market.

We must provide our companies with tools to fight back. It is vitally important that we provide American companies with incentives to put their profits back into research activities that will put them at the cutting edge as we move toward the 21st century. Our standing in the world economy depends on it.

The R&D credit is also about jobs. We need to provide incentives for industries to pour their resources back into the kind of research activities that will create new jobs. Some of California's high-technology industries spend as much as 50 percent of their profits on new research activities. This research leads to production of new products which creates more jobs for California's workers.

Research and development will make the companies in this country better able to compete in the world economy. Research and development will put our people back to work. For this reason, it is vital that we extend the R&D credit on a permanent basis.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. There is no objection on our side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 515) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 516

(Purpose: To eliminate the increase in the taxation of Social Security benefits)

Mr. LOTT. 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 Mississippi [Mr. LOTT], for himself, Mr. GRASSLEY, Mr. MACK, Mr. MCCAIN, Mr. PRESSLER, Mr. NICKLES, Mr. COCHRAN, Mr. ROTH, and Mr. WARNER, proposes an amendment numbered 516.

Mr. LOTT. 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:

Beginning on page 519, line 19, strike all through page 523, line 22.

Mr. LOTT. Mr. President, before I enter into a discussion about the substance of our amendment, I do want to thank the distinguished Senator from Iowa [Mr. GRASSLEY] for making an effort in the Senate Finance Committee to have this unfair tax on elderly Social Security retirees knocked out. He made a valiant effort on a divided vote of, I believe, 14 to 6. This was defeated, but he certainly made a good effort, and he will be joining us in the debate later today.

Mr. President, my amendment is very simple. It deletes the new tax increase on Social Security recipients proposed in this bill. I offered a similar amendment when we were debating the budget resolution, and some Senators said, "Well, this resolution is just a guideline; this is not for real." Mr. President, this one counts. We are shooting with real bullets today.

Unfortunately, the people who will be hit are elderly, retired Social Security recipients. Increasing this tax is wrong in principle, and it is unfair to the elderly. Although the Finance Committee has modified the proposal somewhat from the President's proposal, which was agreed to by the House, this is still blatantly unfair. I believe it is wrong in concept, regardless of income level or the number of people affected. I believe the thresholds will be lowered again in the conference to go back to as low, perhaps, as $25,000.

Under the bill that is before us, the benefits of Social Security retirees who make $32,000 as an individual or $40,000 for a couple would be taxed at 85 percent. I want to emphasize, first of all, that if you are a retiree living basically on Social Security and your income as an individual is $32,000, this is not wealthy. I continue to wonder about the definition of what is "wealthy." I thought wealthy would be in the hundreds of thousands. Then, during the campaign last fall, it dropped to $200,000. Then it was $100,000. Now we are down to $32,000. You will have your taxes increased if you are an elderly person living basically on Social Security, or $40,000 as a couple. These are middle-income people.

But I think the thing that offends me the most about this tax on the elderly is that the revenues will not go into the Social Security trust fund; they will not go to reduce the deficit; they will be used to pay for other programs.

So here we are attacking elderly Social Security retirees and not putting the revenues from the tax increase on them into the Social Security trust fund. We are going to move it around to other programs. It is a new precedent. So my colleagues need to understand for the first time, not only are we going to increase taxes on Social Security retirees—we have done that before—but for the first time, we are going to move it over into the HI trust fund. These funds will be used to pay for other Government programs. Once we start down this path, we will not be able to return it back to what is fair. If there is any tax increase, the revenues should be for the Social Security trust fund.

Remember, these are the working elderly poor. These are the ones who have worked, and paid into Social Security, many of them since 1939. Now that they have retired, the Congress begins to change the rules on them. First, we started taxing 50 percent of what they made; now we go all the way up to 85 percent.

The Finance Committee did raise the threshold from $25,000 for individuals to $32,000, and from $32,000 for couples to $40,000. But it would still raise $26.273 billion over 5 years. Think about that. Almost $27 billion will be taken from elderly retirees in the form of new taxes to go into other programs. This would add as much as 10 percent to the annual tax bill of many of these elderly retirees. For some, the change would be as much as $1,000.

Who will pay this $26 billion in Social Security tax bill? Is it going to be just a small number of really wealthy people? This chart illustrates just who will bear the burden of this proposed tax. As a matter of fact, 69 percent of the new taxes will be paid by Americans earning between $32,000 and $100,000 a year. In other words, 69 percent of this $26 billion would come from people making under $100,000. This is a pretty staggering chart when we are being told over and over again, "Oh, the tax increases in this bill are going to affect only the wealthy; the wealthy will pay 79 or 89 percent of the tax increase in this bill." In reality, the elderly making under $100,000 would pay 69 percent of the money that would be collected.

And these estimates are skewed because they are based on the concept of family economic income, which is very different from what most of us consider as our income. To come up with this number, you add the imputed rental value of a home; in other words, if you own your home, retired and living in it, they impute to you a rental value. It also includes the value of employer-provided benefits and the inside build-up of annuities. So, in truth then, people earning under $32,000 will really be affected.

So, Mr. President, this is one that really counts. The seniors of America are going to know how we vote on this today. This is an opportunity for the

Senate to strike a blow the way they should. In the past, many people have risen on the floor and said, "Oh, don't freeze the Social Security COLA, don't mess with Social Security, it's a trust fund." I agree, it is not causing the deficit problem. It actually has a $52 billion surplus. It is not the problem. So why are we raiding the Social Security retirees? Why are we making the elderly pay more taxes?

The people tell me when I go home, "Cut spending first, don't raise my taxes," and of all ages they say, "For goodness sake, do not put a higher burden on the elderly." The elderly are those who have worked all their lives, many of whom would like to still work. The elderly who do work are already penalized by the earnings test that they have to pay. For every $3 earned above $10,560, they lose $1 in their Social Security benefits. So we are already discouraging them from working. If they worked all their life and saved a little money, then we are going to tax them 85 percent above $32,000.

Let us strike this out. There are plenty of places where we can cut spending. We can do it in administrative costs. We can eliminate some of the reserves we have. There are a whole long list of domestic spending programs and entitlement programs we can change, reform, cap. We should not do this to our senior citizens who are retired and worked all their lives.

So I urge my colleagues to stand up and be counted. We should strike this tax increase on the elderly and we must do it today. If we do not, when it comes back from conference, I predict it will be an even higher tax.

Mr. President, since we have limited time, I want to give as many Senators as possible a chance to be heard on this subject because a lot of them are very interested in it. I would like to yield at this time to the distinguished Senator from Iowa, who has been a real leader in trying to eliminate this very unfair tax. I yield 8 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER (Mr. BRYAN]. The Senator from Iowa [Mr. GRASSLEY] is recognized. What was the amount of time that was requested?

Mr. LOTT. I yield 8 minutes. Can I inquire how much time I used?

The PRESIDING OFFICER. The Senator has under his control 22 minutes.

Mr. GRASSLEY. Mr. President, I hope the Members of this body appreciate the hard work Senator LOTT has put into this effort, both on this bill and on the budget resolution, to bring a very important issue that is going to hurt, be very detrimental to retired people in America, to the attention of Senators. So, obviously, I support the amendment offered by Senator LOTT.

This tax increase is a very bad idea. It is simply an income-reduction program for the elderly. This is one of those things dealing with Social Security taxes that, if Democrats propose it and reduce the Social Security income, it is politically correct. If the Republicans were to do something like this, it would be bad, bad, bad. It is a bad idea, let me assure you, because it raises taxes on older people who can ill afford to pay more taxes.

According to the Treasury Department, and I got these statistics from them as a result of the debate we had in the committee—I am a member of that committee—there are going to be 4.6 million more returns having to report this additional taxable income. Since there are more joint filers than single filers, the total number of people who are going to be affected by this Democratic tax increase will come close to 7 million people.

These people are not rich. Many of them are even in the 15-percent tax bracket and most of them were not rich during their working lives. They are just solid, middle-class American citizens.

It is also a bad idea, not only because so many are going to be taxed, but because it is an unfair tax.

The other income tax increase in this bill that the Democratic majority is crowing about is increased taxes on people with over $115,000 of taxable income. But the Social Security beneficiaries affected by this big tax increase are at income levels as low as $32,000 in taxable income.

The Democrats talk about soaking the rich. Well, with this part of the tax bill you are soaking the nonrich. It is a bad idea because it is going to raise marginal tax rates sky high for those Social Security beneficiaries who must work. And about 17 percent of the income of Social Security beneficiaries comes from wages. For these people who are working, this could be a marginal tax rate at a little over 100 percent.

At that level of taxation, I do not think it is right to call it taxation anymore. It is confiscation. And so you see the egalitarian philosophy of the Democrats taken to the extreme, taking from the producer and giving to the nonproducer. And pretty soon, ladies and gentlemen, if you do that for very long you do not have any producers left and pretty soon you do not have any America left.

These retired people of America, these 7 million people who are going to pay more taxes, are the people who worked and produced and saved for a rainy day, saved for their retirement so they would not be dependent upon children or Government to live well in retirement or just to live in retirement without being dependent. This egalitarian philosophy that runs rampant in the other political party is going to wipe out the savings of some of these people, and it is just plain wrong.

Now, there is another argument of some of the proponents in favor of this tax. It is that it is OK because it will simply make the tax treatment of Social Security beneficiaries just like the tax treatment of private pension income. So, in other words, as I understand this argument—that I do not agree with—income that is not attributable to the beneficiary's own contributions would be taxed as comparable private pension income is taxed.

But the problem with this argument, Mr. President, is that as we all know, plain and simple, the Social Security Program is not like a private pension program. If it were, we would not always have to bail it out politically. In the first place, Social Security is mandatory. In the second place, the benefit calculation formula replaces a larger percentage of preretirement income for low-income workers than it does for middle income and higher income workers.

So there is a regressivity in how Social Security contributions are paid back. So imposing this tax increase on those who were in the middle class during their working years reduces still much further the financial return on their contributions. In other words, making it more regressive than it already is and as it was intended to be.

In other words, private pensions are voluntary and are taxed on their earnings. The Social Security Program is mandatory and the benefits for the middle income are already discounted relative to lower income groups before the tax on them gets levied.

It is also the case that much of the private pension income was sheltered from taxes during the years in which it was accumulated if you include IRA's, Keogh plans, and the like.

Now, the most galling argument I have heard in support of this tax increase on senior citizens, middle-income senior citizens, is that the beneficiaries who will be affected by it must really be rich. After all, the only reason they are subject to this new tax is that they have a huge bundle of money generating interest income. This was an argument that was advanced in the Finance Committee's consideration of this legislation.

There are at least two problems with this reasoning, Mr. President. First, the total income of many of these individuals is not great. These people are not Donald Trumps. I wish the other side would get that out of their heads.

Second, if these people have savings, those savings are necessary for them to maintain what is certainly not more than an adequate standard of living. It really distorts the reality of what has happened here to say that you are going after rich people. They are not the Jack Kent Cookes of this world, as one of the Finance Committee members alleged. These people are not supporting their living standard by drawing down an inexhaustible supply of

savings. They are maintaining their standard of living by relying on income that those savings can generate. It is critical that they maintain that pool of savings if they are to maintain a reasonable living standard. What the Democrats are saying with this proposal is that these retired people are living too well. So we have to reduce their standard of living because they have taken the trouble to save.

There is a second problem. The typical older person who will be subject to this tax, at income levels of $32,000 for an individual and $40,000 for a couple, will have income from a variety of sources, not just interest and capital gains.

An analysis was recently done by Price Waterhouse for the American Association of Retired Persons. According to the study, those with adjusted gross incomes of from $30,000 to $50,000 received 24 percent of their income from Social Security, 21.5 percent from pensions, 17 percent from wages, and 31 percent from interest, dividends, and capital gains.

How much money must an older individual or couple have in the bank before they make 31 percent of their income from interest, dividends, and capital gains? If this typical individual receives, say, $40,000 in annual income, he or she would receive about $9,600 in social security, $8,400 in pension income $6,800 in wages, and $12,400 in interest.

If the individual were making 7 percent on his or her savings, the total amount of those savings would be around $180,000. Is a person rich who has accumulated this amount of money over a lifetime of working and saving?

I don't think so. Middle class, maybe, but certainly not rich. For example, an individual could have saved the maximum permissible IRA amount since 1975 when tax-favored IRA's first became available. They could have earned 7½ percent on those savings. That person would have perhaps $66,500 in IRA savings in 1992.

If they then sold a house at the average value of a home sale, which was around $170,000 last year, they could have a total of $236,500. If they purchased a small retirement condominium at $50,000 to $60,000, they would then have $176,500 to $186,500 left on which to draw interest.

An individual might have a larger social security benefit, more earnings, and a larger private pension. They could then find themselves subject to the new tax with even smaller savings.

I am sorry, but I do not think that such people were rich. And they are certainly not rich now.

Mr. President, I think the elderly have been singled out in this budget for unfair treatment. This is an income reduction plan for the elderly. They are taxed more heavily through the personal income tax than much higher income groups. They will pay confiscatory marginal tax rates on their wage income. The revenues raised by the tax will be dedicated to the health insurance trust fund, meaning that these social security beneficiaries are effectively paying more for the Medicare Program. They will pay the additional energy tax, but will not receive any benefits from the earned income tax credit.

For all these reasons, I strongly support the amendment.

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

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

EFFECT OF ALTERNATIVE 85 PERCENT SOCIAL SECURITY INCLUSION PROPOSAL ON TAXABLE BENEFICIARIES, 1994

[$32,000 single/$40,000 couple]

Adjusted gross income class[1]	Average increase in tax[2,3]								
	Single returns			Joint returns			Married separate returns		
	Amount	Percent	Returns with tax increase (thousands)	Amount	Percent	Returns with tax increase (thousands)	Amount	Percent	Returns with tax increase (thousands)
$0 to $10,000			0			0	$409	59.9	11
$10,000 to $20,000	$86	7.5	13	$213	30.2	10	388	44.0	23
$20,000 to $30,000	21	.9	90	20	1.0	19	482	22.5	16
$30,000 to $40,000	361	8.5	425	57	1.8	225	420	8.4	6
$40,000 to $50,000	832	12.5	280	360	7.7	620	1,477	22.1	3
$50,000 to $75,000	953	9.5	311	1,173	14.8	971	1,211	10.1	14
$75,000 to $100,000	1,064	6.4	76	1,518	11.3	409	1,530	8.5	2
$100,000 to $200,000	1,308	4.4	66	1,702	6.3	277	1,513	4.1	5
$200,000 plus	1,439	1.0	32	2,117	1.5	143	1,489	0.4	1
Total	472	5.7	1,293	820	6.0	2,674	694	5.7	79

[1] AGI includes 50 percent of benefits above the current law threshold.

[2] Includes returns with taxable Social Security benefits under current law. Some of these returns are not subject to higher taxes under this proposal.

[3] Calculated at current law tax rates.

Note. Proposal: Add a second and higher Social Security threshold of $32,000 single return, $40,000 joint return.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I ask unanimous consent that Senators MCCONNELL and HELMS be added as original cosponsors of this amendment.

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

Mr. LOTT. I ask unanimous consent that two letters that I received opposing this Social Security tax increase and a CBO table illustrating the distribution of this tax be printed in the RECORD.

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

[Telegram sent to all U.S. Senators]

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC., June 23, 1993.

A vote to support the Lott amendment to eliminate the Social Security tax increase in S. 1134 is a critically important vote to seniors and the nearly six million members of the National Committee to Preserve Social Security and Medicare.

MARTHA A. MCSTEEN,
President.

UNITED SENIORS ASSOCIATION, INC.,
Fairfax, VA, June 23, 1993.

DEAR SENATOR LOTT: We understand that you will offer an amendment to eliminate President Clinton's proposed tax increase on Social Security benefits. United Seniors Association, Inc. wholeheartedly endorses your amendment.

USA, Inc. has sent all members of the United States Senate a letter urging them, in the name of fairness, to support your amendment or similar measures. We believe the President's proposal is especially unfair to seniors because:

It asks 10% of America's population, most of whom are on fixed incomes, to pay for 20% of the so-called deficit reduction.

It increases Medicare Part B premiums by 68% over five years and cuts a total of $69 billion out of Medicare.

It would increase up to 70% the Social Security benefits tax paid only by seniors. Some middle-income seniors will pay outrageous marginal tax rates of 80% or 90%.

The President's new "seniors" tax is sometimes "justified" by saying seniors' Social Security benefits add to the deficit. This is simply not true. USA, Inc. has repeatedly reminded members of Congress that the Social

Security Trust Fund runs a billion dollar-a-week surplus, and actually reduces the deficit by that amount.

On behalf of USA, Inc.'s 400,000 members, I want to thank you for defending seniors. Let's remember, our seniors have stood by America through good times and bad. Now we must stand by them!

I hope that your colleagues will support your amendment and eliminate the unfair and misguided "seniors" tax increase on Social Security benefits.

Respectfully,

SANDRA L. BUTLER,
President.

DISTRIBUTIONAL EFFECT OF OPTION ON FAMILIES WITH SOCIAL SECURITY (1994 INCOME LEVELS AND 1998 LAW)

[Using January 1993 economic assumptions; Option: Make up to 25% of Social Security taxable above $32,000/$40,000]

	All Federal taxes			Income after tax		Effective tax rates		
	Average	Change	Percent change	Average	Percent chance	Current law	With option	Total change
Families by adjusted family income:								
All families:								
1st	268	0		8,074		3.2	3.2	
2d	933	0		16,583		5.3	3.3	
3d	2,787	3	0.1	26,846		9.4	9.4	
4th	6,003	43	.7	38,718	−0.1	13.4	13.5	5.9
5th	24,371	836	3.4	85,790	−1.0	22.1	22.9	93.7
All quintiles	5,370	127	2.4	29,794	−.4	15.3	13.6	100.0
Top 10	36,220	1,110	3.1	114,846	−1.0	24.0	24.7	65.0
Top 5	33,168	1,259	2.4	155,006	−.5	25.5	26.1	39.5
Top 1	161,296	1,437	.9	403,639	−.4	28.6	28.3	8.3
81 to 90 percent	11,418	538	4.7	54,026	−1.0	17.4	18.3	28.8
91 to 95 percent	14,609	937	3.6	68,375	−1.4	19.5	50.6	25.4
96 to 99 percent	28,700	1,219	4.2	98,743	−1.2	23.3	22.3	31.2
Families with children:								
1st	499	0		12,605		3.8	3.8	
2d	2,370	0		26,290		8.3	8.3	
3d	7,063	30	.4	39,898	−.1	15.0	15.1	9.1
4th	12,265	148	1.2	56,803	−.3	17.8	18.0	32.5
81 to 90 percent	20,838	359	1.7	77,258	−.5	21.2	21.6	26.4
Top 10	60,649	618	1.0	166,105	−.4	26.7	26.9	31.9
All quintiles	7,198	67	.9	32,647	−.2	18.1	18.2	100.0
Families with head age 65+:								
1st	195	0		7,449		2.5	2.5	
2d	684	0		13,442		4.2	4.2	
3d	2,053	0		25,224		7.5	7.5	
4th	4,826	31	.6	36,316	−.1	11.7	11.8	3.5
81 to 90 percent	9,755	622	6.4	51,350	−1.2	16.0	17.0	27.6
Top 10	36,525	1,249	3.4	116,098	−1.1	25.9	24.7	68.8
All quintiles	3,061	147	2.9	29,712	−.5	14.6	15.0	100.0
Other families:								
1st	402	0		7,203		5.3	5.3	
2d	1,336	0		16,487		7.5	7.5	
3d	3,706	1		26,687		12.2	12.2	.2
4th	7,749	43	.6	40,080	−.1	16.2	16.3	11.9
81 to 90 percent	13,807	325	2.4	55,385	−.6	20.0	20.4	40.3
Top 10	27,332	315	1.9	93,262	−.6	22.8	23.2	47.5
All quintiles	5,696	72	1.3	28,566	−.3	16.6	16.6	100.0
Families by dollar income (measured after corporate and employee payroll taxes):								
Less than $10,000	211	0		6,878		3.0	3.0	68.9
$10,000 to $20,000	665	0		14,340		4.5	4.5	68.9
$20,000 to $30,000	1,988	0		23,622		7.9	7.9	68.9
$30,000 to $40,000	3,953	17	.4	32,131	−.1	11.4	11.5	68.9
$40,000 to $50,000	6,376	118	1.8	40,315	−.3	14.3	14.6	68.9
$50,000 to $75,000	10,737	432	4.5	53,014	−.9	17.8	18.6	68.9
$75,000 to $100,000	18,196	840	4.6	72,227	−1.2	21.3	22.2	23.0
$100,000 to $200,000	31,717	1,005	3.2	107,468	−.9	24.3	25.1	22.7
$200,000 or more	37,881	1,399	.9	398,227	−.4	30.8	31.0	2.4
All incomes	5,370	127	2.4	29,794	−.4	16.0	16.4	100.0

Mr. LOTT. Mr. President, I yield 4 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN], is recognized for 4 minutes.

Mr. MCCAIN. Mr. President, recently I have been reading with some interest the campaign document put out by then Gov. Bill Clinton called "Putting People First, a National Economic Strategy for America." And with careful reading by me and my staff, I have seen nowhere in "Putting People First" a measure that anywhere near would be comparable to this incredible attack on retired Americans we are seeing as part of this proposal. In fact, his proposal says, "Shut the door on the something-for-nothing decade by making the wealthiest Americans pay their fair share in taxes, ending tax breaks for American companies that shut down their plants and ship jobs overseas, eliminate deductions for outrageous executive pay, crack down on foreign companies who prosper here.

I can find nothing in "Putting America First" that in any anyway equates to this, frankly, unconscionable, incredible attack on senior citizens.

Mr. President, senior citizens are being subjected to a triple whammy. You combine the other proposed tax increases such as the fuel tax where people will have to pay added bills in my State for air-conditioning, others for heating oil, gasoline, then you put onto it the Social Security earnings test, which I have unsuccessfully but will continue to attempt to repeal—and we will succeed in that at some time or another—and, of course, this now would give seniors $1.01 taxes for every $1 they earn. It is incredible, incredible that we have developed a society where we penalize our senior citizens to the degree that we are going to charge them a $1.01 taxes for every $1 they earn.

Let me also point out, Mr. President, in 1983, when I first came to the Congress of the United States, the major crisis facing America—and, frankly, it is our citizens—was the insolvency of the Social Security trust fund. All the experts told us that the Social Security trust fund was going to go bankrupt, and we would not be able to maintain the contract we had made with senior citizens.

So what did we do? As part of a grand compromise that was a bipartisan compromise, we asked our senior citizens to make certain sacrifices. Among those were certain senior citizens at a certain level would pay taxes on their income in order to ensure the solvency of the Social Security trust fund.

Now we promised them that we will not do anything more to them, that the Social Security trust fund would be solvent, that they would not be subjected to any more taxes.

Now we are not only increasing their taxes, but we are taking those funds. And are we putting it into the Social Security trust fund. No; we are putting it into general revenue. These people are awakening in horror when they find out that they make $32,000 a year, that they are rich, that they are the wealthy ones that made all this money during the decade of greed and now we are going to penalize them by increasing their taxes. It especially penalizes those who seek to work, who have to

work, because of increasing health care costs or other reasons.

Mr. President, this plan is awful. I think it is time that the amendment by the Senator from Mississippi says "no" to Washington's desire to rob our Nation's seniors of their Social Security benefits by raising the taxes on them. And if some situation arises at some point where we have to raise their taxes, those taxes should go back into the Social Security trust fund, which many of the working men and women today do not believe will be there at the time of their retirement.

I have two additional amendments which will not have time to be debated. One is to take this money, if the amendment of the Senator from Mississippi is turned down, and put it into the Social Security trust fund. And, of course, we will have another opportunity to vote on eliminating the onerous, unfair, outrageous Social Security earnings test.

Mr. President, I want to thank my friend from Mississippi for proposing this amendment. Those senior citizens throughout our country deserve not having this additional burden laid on them. I am confident that this Congress will reject such an outrageous proposal. I yield the floor.

Mr. MOYNIHAN. Mr. President, who manages the time?

Mr. FORD. Mr. President, I understand that we have Senator FEINGOLD, Senator BUMPERS, and Senator BAUCUS, who are asking for some time. Does the Senator from New York wish time on this amendment?

Mr. MOYNIHAN. It depends on the managers. I really have to be somewhere else.

Mr. FORD. We have several speakers. I will be glad to yield the Senator some time, if he wishes.

Mr. MOYNIHAN. Will he allow the chairman of the Finance Committee to speak?

Mr. FORD. Yes; how much time would he like to have? We have 30 minutes total.

Mr. MOYNIHAN. I would like to have as much as I require, which will not be much. Why not let other Senators speak and let me know what time is remaining?

Mr. FORD. I yield 5 minutes to the Senator from Montana [Mr. BAUCUS].

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think it is important first to remember that this amendment increases the Federal budget deficit by at least $26 billion. It increases the budget deficit by at least $26 billion over 5 years.

Second, it is important to remember what this amendment in the Finance Committee bill really does. First, it affects only 13 percent of our senior citizens, only 13 percent. It does not affect the person who has saved up over the years, who does not receive high Social Security benefits, who does not have additional income, who is not in a very good position financially. It does not affect those people at all. It only affects 13 percent of senior citizens. And 87 percent of senior citizens are totally unaffected by this provision in the Finance Committee bill.

So the amendment of the Senator from Mississippi is directed only at 13 percent of the seniors in this country. Let us ask ourselves, who are those 13 percent? Who are the 13 percent for whom the Senator from Mississippi wishes to increase the budget deficit another $26 billion over 5 years? Who are they?

Mr. President, they are our Nation's most wealthy seniors. They are the seniors with high incomes and high assets. On average, Mr. President, the 13 percent who are affected by this amendment are senior citizens whose net worth on average is over $1 million.

It only affects people in our country who are over age 65 and whose net worth on average is over $1 million.

How many seniors have a net worth of over $1 million? How many? Not very many at all. Just 13 percent have an average net income of over $1 million.

So, Mr. President, I think that we should call it as it is. Say what is really happening here. This is an amendment which only benefits the most wealthy seniors. Yet, under the Finance Committee provision, these seniors are not going to be paying much more in taxes. Frankly, the provision simply increases the amount of Social Security benefits which seniors must include as taxable income. Current law requires that 50 percent of Social Security benefits are subject to taxation, and this provision simply increases this to 85 percent. It also raises the thresholds so that middle-income Americans are not hit by this provision.

I must say, Mr. President, I think most seniors want to help reduce the budget deficit. They want to be part of the solution. They do not want to be exempt from the solution. I go to town meetings in my State at senior citizens centers. I explain what we have to do to get this Federal budget deficit under control.

A few year ago I advocated an across-the-board freeze on all Federal spending including Social Security COLA's, defense, everything. Senior citizens in the State of Montana would stand up to me and say: "You mean you are not going to increase my COLA?"

I said: "That is right."

"Are you sure nobody else is going to get an increase either?"

I said: "That is right."

They would say to me: "Well, OK. As long as nobody else is getting an increase, I will pay my fair share too. I will contribute to the solution."

So again, Mr. President, it is very, very important to remember that this amendment increases the budget deficit by at least $26 billion. I do not think the most wealthy seniors in our country want to increase the budget deficit.

For those reasons I urge our colleagues to exercise common sense, be responsible, do what is right here, and reject the Lott amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, how much time is remaining on the——

The PRESIDING OFFICER. The majority controls 24 minutes 30 seconds.

Mr. MOYNIHAN. I yield myself such time as I may require, Mr. President.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, since 1938, Social Security beneficiaries with adjusted gross incomes of more than $25,000 for the individual, or $32,000 for a couple, have been required to pay taxes on their retirement benefits in the exact mode that persons receiving benefits from a private retirement fund pay taxes, the only difference being that Social Security recipients have been paying at a much lower rate.

How have we gotten into this stage? Very simply: in 1979, the Advisory Committee on Social Security, a body that is appointed every 5 years—and has been since 1939—proposed that the time had come to begin taxing retirement benefits received from Social Security, earned benefits, in the same way that other retirement benefits were taxed.

This was a clear proposal of the council of fine practice that we have had now for about 60 years of reviewing our Social Security System, so to ask what changes should be made. That is 1979.

In 1983, the National Commission on Social Security Reform, of which the distinguished Republican leader was a member; I was a member; Senator John Heinz, our beloved former colleague was a member; Alan Greenspan, the current eminent Chairman of the Federal Reserve Board was the chairman; and it is widely known as the Greenspan Commission. That Commission recommended the legislation which we now have in place which said: Begin the taxation of Social Security retirement benefits in the same method that other earned retirement benefits are taxed.

Now we are going from 50 to 85 percent subject to taxation, which is about the amount that most private pension funds are taxed at, the point being that the employee's contribution is taxed at the time it is made and, therefore, ought not to be subject to double taxation. It works out in a familiar arrangement, and millions of Americans are retired on that basis.

Lest we change the situations for persons expecting the 50-percent rate to continue indefinitely, we have moved the numbers up to $32,000 and

$40,000 for a couple. This proposal means that of the present 9 million persons, 9.2 million, who pay benefits, 2.9 will not, because they will still be within that earlier range; and 4.9 will; for a total of 6.3 million paying either the 15-percent rate or the 22-percent rate.

The point is, Mr. President, that this is a progressive measure which asks that persons with medium to large incomes, from either retirement benefits or savings or whatever, pay taxes on their benefits the way anybody else does. We have to make the distinction between paying the tax on 85 percent of your benefit and the tax itself, which is to be 15 percent, 28 percent, 36 percent.

There is a rather striking fact, Mr. President, and I would like the body to hear this. The average net worth of those paying additional tax under the Finance Committee proposal is over $1 million. I will say that once again. There will be a certain number of people who will pay at the normal rate at which earned retirement benefits are taxed—the proportion that is taxed—those who pay up to that average proportion now have an average net worth of over $1 million.

That is a very nice thing. There are a lot of retired persons in this country, couples, who have a net worth of over $1 million. That is good. They are asked to pay on this particular income stream about the same taxes they would pay on other private pension arrangements. This is an absolutely normal standard.

In the course of the hearings we had on this subject earlier in the year, we talked with a range of persons with great experience with our social insurance system, including Robert Ball, who was Social Security Commissioner since the 1930's, was Commissioner under Presidents Johnson and Nixon; Robert Myers, who came to Washington in 1934 to work in the Commission which proposed the legislation we now know as Social Security.

These two eminent authorities both said, of course, we should treat this earned benefit the way we treat other earned benefits, because it is an earned benefit, not something the Government gives you. It is something you have paid into during your working years. You have an account number and you have an account. I urge citizens to write for their cumulative payments and prospective benefits statement that can be gotten for the price of a stamp. This is an earned benefit, and we are treating it like any other. We are making it special, however, in that only persons with medium to large incomes, and as we learned, very large net worths, will be affected.

Mr. President, to do this, vote for the amendment before us, is to undermine the Social Security principle that these are earned benefits.

To sustain the Finance Committee and the National Commission on Social Security Reform is to vote against this amendment.

Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. The majority controls 15 minutes, 48 seconds.

Mr. MOYNIHAN. Mr. President, I see that the distinguished Senator from Wisconsin has risen. Does he wish to speak for 5 minutes?

Mr. FEINGOLD. Yes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President.

This is an amendment having to do with whether or not we are going to get serious about the Federal deficit. I had the opportunity to hear the Republican leader on television yesterday, and he indicated—about the plan he was putting forward—that his plan, the one we voted on last night, would be one the American people would like.

Well, I think that is part of the problem. A deficit reduction plan should not be one that the American people will like; it should be one that they will understand and support. That is because deficit reduction is a painful process, one that involves sacrifice.

In the past decade, in sharp contrast, the Reagan and Bush administrations have produced the 10 largest budget deficits in our history. This bill is very different. The Senate budget reconciliation bill retains the key elements of President Clinton's proposal for $500 billion in deficit reduction, a significant reduction in Government spending, and it also restores some measure of tax equity.

Of course, reducing the Federal deficit is not easy, it is not fun, and it will cause real pain and sacrifices throughout the Nation. But it is something that must be done if we are going to restore America's economic security.

As a nation, we have spent the last decade living beyond our means, spending more than our income, and borrowing to cover the difference. That has to stop. That is why the whole purpose of this bill is really just one thing: deficit reduction.

One very concrete manifestation of the adverse results of this deficit spending is the ever-growing cost of interest to the national debt. During the 1980's, interest payments on the Federal debt became the fastest growing Government spending program. It increased almost fourfold. Net interest payments, Mr. President, have risen from 8.9 percent of our total Federal outlays in fiscal year 1980 to 14.3 percent in fiscal year 1992. These claim an increased share of our Federal income. It cripples investment in needed programs, and it locks future generations into paying off the tremendous bills that our generations have created.

The only way to restore fiscal stability and economic growth is to do what this bill does today: To start the difficult unpleasant task of reversing the disastrous economic policies of the past two administrations. As I have said, and now as I have now experienced, cutting the Federal deficit is not a pleasant task. Those who pretend we can eliminate the deficit by just reducing Government waste and abuse, or by just reducing Government spending, are not being entirely candid.

I say the same thing to anybody who says we can solve the whole problem by just raising taxes. That would be wrong, too. The truth is that we need a combination of spending cuts and revenue increases. That is exactly the kind of budget that the President has proposed and that the Senate is considering today, a tough, disciplined deficit reduction bill.

Mr. President, business leaders in my home State of Wisconsin have told me candidly that they know taxes have to be raised to bring down the deficit. It is only politicians in Washington who like to pretend that we can cure our economic woes without tough, often unpopular measures and new revenues, items that people may not like but will understand and support if it means reducing the deficit.

How does this get accomplished? I think on the floor there has been a tremendous amount of very effective discussion on our side about the revenue side, about the fact that the vast majority of the revenue in this package comes from those who can and should pay more. I think that is something that needs to be constantly reiterated.

The attempt has been made to suggest that this is an across-the-board $250 billion package on lower and middle income people. That is simply false. Even more importantly, there are some very serious spending cuts. The deficit reduction package includes $267 billion in spending cuts, including $102 billion in discretionary spending cuts provided for under the budget resolution, $107 billion in mandatory and entitlement changes, and $59 billion in interest savings.

I am already hearing complaints about people who do not like the pain this involves.

As a member of the Senate Agriculture Committee, I had to vote for $3 billion in cuts in agriculture programs. These will have a direct and immediate impact upon farmers' income in my own State and throughout rural America. I have already heard from the honeybee keepers and sheep herders in Wisconsin who are not happy with the cuts in the honey program and the wool support program. They know it will have an impact. Even our dairy farmers in Wisconsin will have to take their share of $250 million in cuts in the dairy support program.

Mr. President, these are cuts. These are not false statements. These are not bookkeeping games. They are true cuts.

The PRESIDING OFFICER (Mr. KERREY). The Senator's time has expired.

Mr. MOYNIHAN. The Senator from Wisconsin is making such good sense that I would like for him to continue for another 3 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 3 additional minutes.

Mr. FEINGOLD. I thank the Senator.

Mr. President, the cuts the Agriculture Committee approved in the Federal share of administering the food stamp program will have an immediate and real impact in urban communities.

I heard complaints from people in Wisconsin about each of these spending cuts and, yes, the subject of this amendment, too. Some senior citizens are going to face reductions in income because of the increased tax on Social Security, benefits, for recipients in certain income categories.

Although the Finance Committee made every effort to put the changes on the higher income, the definition is in the eyes of the beholder. I know I am going to face many unhappy senior citizens in town meetings I hold throughout Wisconsin, who tell me the real difficulties they face each month in paying bills and living off limited, fixed incomes with constantly rising Medicare costs.

I do not enjoy voting for this, either, having been chairman of the Senate Aging Committee in Wisconsin for 10 years. But painful provisions are necessary to reduce the Federal deficit that affects everyone, young and old, working or retired, urban or rural.

I think it is important to stand out here and say what this really is. It is not, as Senator DOLE indicated, a bill that the American people will like. But it is one that, after it is passed, they will take a good look at, and they will say: Well, then; we did elect a new President who took this issue seriously, and we are grateful for his willingness to take a true leadership role and not just make another excuse for not dealing with the Federal deficit.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, I think you heard an extraordinary, straightforward, courageous speech from the Senator from Wisconsin. I thank him for that.

I would like to make a point that the revenues raised from this measure, some $26 billion over 5 years, will be deposited into the hospital insurance fund, a special provision that revenues which would not ordinarily be taxable will go, even so, to the Social Security trust fund.

I repeat the point the Senator from Wisconsin made: 92 percent of the persons affected here will have had incomes in excess of $50,000 a year and an average net worth of over $1 million. If the question is ability to pay, we have answered that question. If the question is the legitimacy of this revenue under our tax laws, it is very simple.

In 1979, we said this earned benefits will be taxed along with any other earned income, and should be, because it belongs to the individuals, and is not a gift from Government. In 1983, the Republican leader, Senator DOLE; our beloved former colleague, Senator Heinz; and Senator MOYNIHAN all proposed this be done.

It is now being done.

Madam President; I yield the floor, reserving such time as we may have.

The PRESIDING OFFICER (Mrs. BOXER). The Senator has 6 minutes 2 seconds remaining.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I ask unanimous consent that the distinguished Senator from Virginia [Mr. WARNER] be added as an original cosponsor.

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

Mr. LOTT. Madam President, I yield 2 minutes to the Senator from Oklahoma [Mr. NICKLES].

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I congratulate Senator LOTT for his leadership on these issues.

I hope the American people will really pay attention to what is happening. Senator LOTT's amendment seeks to strike, in my opinion, an unfair tax penalty on senor citizens. I might mention it is a tax diametrically opposed to what candidate Bill Clinton said he was for during the campaign.

During the campaign, candidate Bill Clinton said he wanted to eliminate the so-called earnings test, or the earnings penalty for Social Security recipients, which right now is basically a tax surcharge of 33 percent.

Instead of limiting that onerous penalty on senior citizens,what he is doing is trying to increase the tax on senior citizens' Social Security income they receive, income over $32,000 for an individual or $40,000 for a couple. Now they will be taxed on 85 percent of their Social Security income. That is a significant tax increase. I know because my father-in-law falls into that category, and he is not superwealthy.

I heard the chairman of the Budget Committee yesterday say no one will have tax increases or income tax increases unless they have incomes of over $115,000 or $140,000. That is not true, because my father-in-law does not have that kind of income. But he is going to have a tax increase because of this provision, unless the Lott amendment is approved.

The tax is not a small tax. This is not a couple dollars a month, as someone said the gasoline tax was. This is a tax increase. If someone has about $40,000 of income from their pension, or other savings, or whatever, this is a tax increase of over $100 a month. We are talking about real money. We are talking about a heavy hit on senior citizens. And, I might add, if one had the marginal rate.

Madam President, I ask unanimous consent to print in the RECORD two tables that show the marginal rate increases will exceed or can exceed 100 percent for senior citizens.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

CURRENT MARGINAL TAX RATES ON THE WAGES OF ELDERLY WORKERS [1]

[In percent]

Tax	15 percent bracket	28 percent bracket
Ages 65–70:		
Income tax	15.00	28.00
FICA tax	7.65	7.65
Social Security earnings penalty	33.33	33.33
Social Security benefit tax [2]	6.25	11.67
Total Federal tax	62.23	80.65
Ages 62–64:		
Income tax	15.00	28.00
FICA tax	7.65	7.65
Social Security earnings penalty	50.00	50.00
Social Security benefit tax [2]	5.63	10.50
Total Federal tax	78.28	96.15

[1] Workers are assumed to be below the caps on the FICA tax, the Social Security benefit tax and the Social Security earnings penalty (which becomes zero once all benefits are lost).

[2] The Social Security benefit tax rate is lower than the rate shown in table 1 because of the loss of benefits due to the earnings penalty.

MARGINAL TAX RATES ON THE WAGES OF ELDERLY WORKERS UNDER THE CLINTON PLAN

[In percent]

Tax	15 percent bracket	28 percent bracket
Ages 65–70:		
Income tax	15.00	28.00
FICA tax	7.65	7.65
Social Security earnings penalty	33.33	33.33
Social Security benefit tax [2]	10.63	19.83
Total Federal tax	66.61	88.81
Ages 62–64:		
Income tax	15.00	28.00
FICA tax	7.65	7.65
Social Security earnings penalty	50.00	50.00
Social Security benefit tax [2]	9.56	17.85
Total Federal tax	82.21	103.50

[1] Workers are assumed to be below the caps on the FICA tax, the Social Security benefit tax and the Social Security earnings penalty (which becomes zero once all benefits are lost).

[2] The Social Security benefit tax rate is lower than the rate shown in table 1 because of the loss of benefits due to the earnings penalty.

Mr. LOTT. Madam President, I yield 2 minutes to the distinguished Senator from New Mexico, the ranking member of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Madam President, I just want to take a very short time to talk from our side of the aisle about a subject that has been spoken about so much on that side that I wonder how much more we have to hear; that is, that the Republicans are here to protect the rich.

I think Senator Lott's amendment is here to show to the American people

that that is a sham; that the tax proposals that are before us are in some way to be protected by us because they are taxing the rich. What about the thousands of Social Security recipients who are going to be taxed under this bill?

Are the Democrats prepared to run across America saying: They are rich; we want to tax them because they are the millionaires in America; they are the affluent 1 percent?

Frankly, the seniors know better. And this is the only way that we know to put the facts on the table instead of the rhetoric in the air. And the facts are, these are not superrich people; they are retired people in this country.

The interest rates are going down. Inflation has already hit them. And now we are saying: Let us tax more of their benefits.

I hope Senator LOTT's amendment is adopted, but from what has been happening, it will probably get just short of the requisite number of votes.

But the American people will understand that we were not for protecting the rich. We were for protecting senior citizens until we get a real budget plan. Clearly, we should not be taxing them.

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

Mr. MOYNIHAN. Madam President, I yield 3 minutes to the able and revered Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Madam President, I would like to say to the Senator from New Mexico, I did not say the Republicans protected the rich. Kevin Phillips is the one who said that. Kevin Phillips said the historic mission of the Republican Party has been to keep the rich from being taxed. Now, I do not agree with that. I saw the people on that side vote to freeze COLA's on Social Security, probably to their everlasting chagrin and regret.

But under this particular bill, we take off an awful lot of people on Social Security who have been paying income tax. Is that not correct, I say to the Senator?

In the past, 20 percent of the Social Security recipients, because of the low threshold, have been paying income tax on 50 percent of their income. Under this proposal, only 13 percent will be taxed. That is, 7 percent in the middle are being taken off the tax roles. And we are raising the thresholds so that those who do pay tax are much better able to pay it.

Now what is wrong, I say to the Senator, with taxing 1 out of 10 people on Social Security, some of them making $1 million a year, some of them making $100,000, some of them making only, say, $50,000? But that is not exactly what you would call tax-the-poor-folks-or-the-middle-class amendment.

Finally, I think what probably chagrins me more than anything else and what the people of this country at some point ought to be asked to reflect on is, do you think I enjoy going home and telling my senior citizens we are going to raise their taxes? I have a lot of rich friends, wealthy friends. Do you think I enjoy going home and telling them that we are going to raise their taxes to 36 percent? Well, you have to be crazy.

One way to get beat around here and the one thing every politician fears above everything else is to raise taxes. So you have to have a lot of people on this side who think this Nation is at risk.

Our problem is very simple. From that side of the aisle you hear, "No, no, no. No, you can't do it that way," whether you are raising taxes or cutting spending. If you are going to cut the super collider or the space station, you cannot do that. You cannot cut SDI. You cannot cut intelligence. I do not know how many votes we are going to get on those issues from the other side of the aisle this fall.

If you are going to cut Medicare entitlements—that amendment yesterday afternoon, the so-called substitute, was devastating to Medicare, much more devastating than this bill.

Madam President, the time has come for 100 Senators to face up to their responsibility. We had 12 years of snake oil that gave us a $4 trillion debt. Nobody else is going to pay it off. Like that Times cartoon said the day before yesterday, "Everybody wants to go to Heaven, but nobody wants to die."

Everybody wants the budget balanced, as long as they do not have to do anything about it.

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

Mr. LOTT. Madam President, how much time remains on each side?

The PRESIDING OFFICER. On the majority side, there are 2 minutes 57 seconds remaining; on the minority side, there are 4 minutes 13 seconds remaining.

Mr. LOTT. Madam President, I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. SASSER. Will the distinguished Senator yield for a unanimous-consent request?

Mr. MACK. Yes.

Mr. LOTT. It will not count against the time, will it?

The PRESIDING OFFICER. It will not count against the Senator's time or the time of the minority.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Madam President, I ask unanimous consent that, upon the disposition of the Lott amendment, the Senator from Nebraska [Mr. KERREY] be recognized to offer an amendment creating a health care trust fund; that upon disposition of the Kerrey amendment, the Senator from Delaware [Mr. ROTH] be recognized to offer an amendment on behalf of himself and Senators WALLOP and PRESSLER regarding small business; and that no second-degree amendments be in order to either of these two amendments.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. SASSER. I thank the Senator for yielding.

Mr. DOMENICI. I yield myself 30 seconds off the bill.

Madam President, could I have the parliamentarian instruct us, through you, as to how much time remains on the overall bill as of now?

The PRESIDING OFFICER. Overall, there were 6 hours and 16 minutes prior to consideration of this amendment. Assuming that all time is used, there will be 5 hours 16 minutes.

Mr. DOMENICI. I thank the Chair.

I hope Senators on our side understand that we are doing our very best, but time is running and we are going to try to sequence a couple more amendments and then we will see where we go from there.

I thank the Chair and I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. MACK. Madam President, I am pleased to join Senator LOTT and Senator GRASSLEY in proposing this amendment.

Let me remind President Clinton and Democrat Senators of a statement Candidate Clinton made during a campaign stop in Macon, GA, on September 1, 1992.

> We don't need to tamper with Social Security. We are not going to fool around with Social Security. It's solid. It's secure. I'm going to keep it that way.

Yet, on the first opportunity that presents itself, President Clinton and Senate Democrats propose a huge tax hike on middle-class Social Security recipients.

Let me just stop here for a moment and make this point. This is not a group of greedy millionaires that are being affected. There are some 4.6 million people with $32,000 or more that are going to be affected by this tax hike. And the message that we hear from Democrats on the other side is: "Oh, don't worry. The taxes we are talking about are only going to affect the wealthy of this country."

Well, I have to tell you something. A grandma and grandpa living on $32,000 a year, with grandma in the hospital or in a nursing home with Alzheimer's disease, with the husband having to find some work to pay the bills, they do not consider themselves to be wealthy even if they are making $50,000 a year.

The kind of money it takes to take care of a spouse under those conditions is tremendous. And if you do not think

that this bill is not going to have a significant impact upon those individuals, you are absolutely wrong.

The bottom line is, everybody in America is going to feel the effects of this bill.

A young man came up to me in an airport down in Florida and said, "Senator, you have to stop them from raising the Btu tax."

Now, granted the Btu tax is in the House version of this bill. Nevertheless, I wondered why in the world would he raise the issue of the Btu tax. I asked him, "What do you do?"

He said, "I'm a chef on a yacht."

I asked, "Why would you be concerned about taxes on your employer?"

He said, "Everything I buy that comes onto the yacht increases his cost. Everything that he will buy is going to increase his cost. This is especially true of the fuel we use to run the ship. And, do you know what? The Btu tax puts my job at risk."

So I say to my friends on the other side of the aisle, you who keep wanting to make the case that only the wealthy are going to pay these new taxes, well, that is just plain wrong; 4.6 million Americans are going to be affected by this new tax.

We have heard a great deal of talk from the Democrats about making the wealthy pay their fair share. Well, let me tell you something. Seniors earning $32,000 are not wealthy.

This amendment focuses on three fundamental questions:

First, "should 85 percent of Social Security benefits be taxed?"

Put another way: "Should we impose an effective marginal tax rate of up to 104 percent on America's senior citizens?"

Or, put yet another way, "Should we destroy incentives for younger workers to save for their retirement?"

The Senate should answer these questions with a resounding "No."

There are several basic reasons why this is flawed policy.

First, the President should cut spending, not raise taxes. With this elderly tax and the energy tax-of-the-day charade, it's clear the President just doesn't get it: Cut spending first.

The President has said he agrees. During his State of the Union Address he said that he "seeks to earn the trust of the American people by paying for these plans first with cuts in Government waste and inefficiency * * * not gimmicks."

He reinforced his commitment in an address to the U.S. Chamber of Commerce:

> If we don't cut spending, the deficit reduction package has no credibility, and besides that, a lot of this spending needs to be cut. * * *
>
> We have to tighten our belts before we ask Americans to tighten theirs. * * *
>
> Before we get to any tax increases, I want to know that the spending cuts are going to be there. I will not sign a tax increase without the spending cuts. * * *
>
> I want to say again I don't want to raise one penny of this money unless we have the spending cuts. Not a penny.

Well, this bill shows he can't be trusted to cut spending.

Second, this proposed tax hike is an unacceptable burden on working middle-class seniors. It will mean an effective marginal tax rate of more than 103 percent for some seniors. The President should be thinking of new ways to retire taxes, not tax retirees.

Now I cite the significant size of this tax increase proposal because it really represents a major sacrifice for many Americans. And the American people are willing to make sacrifices to reduce the deficit, but they want to see spending cuts first. My constituents are calling my offices with a consistent message: Cut spending first. They want to see a meaningful, significant plan for the Government to tighten its belt.

Let me cite yet another compelling reason for opposing this onerous tax hike. It's not just a tax on grandparents—young working Americans will also be feeling the effect of this tax hike and so will the economy at large.

Let me explain:

The Tax Code currently encourages people to save for their retirement through a variety of tax-deferred pension plans, including IRA's. People can defer taxes until retirement with the expectation that tax rates will be lower for most people after they retire.

If the President gets his way and this plan is adopted, retirees will be surprised by a big increase in their tax rate.

The Government is sending Americans of all ages the message that if they save for their retirement years, they'll be punished with a government poised to snatch that savings away. That's wrong. We should reward savings, not punish it.

Why are the Democrats angry about people being successful? Why do they want to punish success?

Remember the catastrophic health care plan that was supposed to tax only wealthy seniors, but wouldn't hurt middle-class older Americans?

When the ink was dry on the legislation, however, seniors found they had been taken. Supplemental premiums were increased for those with taxable incomes of around $8,000.

Well, middle class older Americans shouldn't be surprised that the same group that called them wealthy during the catastrophic care debate is calling them wealthy again during this debate on Social Security taxes. Older Americans have had to cut back on spending during their lives to save for the future. The Government must be willing to do the same.

But we simply can't trust President Clinton to cut spending first. As we all remember, he repeatedly promised not to tax the middle class. "Those making more than $200,000 have to pay more. The rest of us get a break."

But he broke these promises. His Social Security tax increase that this amendment would prevent is directed toward middle-class seniors.

The President should dump this tax like he did the Btu tax. If he spent as much time looking for ways to cut spending as he does looking for tax increases, America will be far better off.

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

Mr. MACK. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Madam President, how much time do we have remaining on each side?

The PRESIDING OFFICER. The minority has 56 seconds and the majority has 2 minutes and 57 seconds.

Mr. LOTT. I presume the distinguished chairman of the committee would like to close, so I yield the remainder of my time for a strong closing by the distinguished Senator from New York [Mr. D'AMATO].

Mr. DOMENICI. Madam President, since 56 seconds is hardly enough time for the Senator to get started, I yield a minute off the bill to go along with the 56 seconds.

The PRESIDING OFFICER. The Senator is recognized for 1 minute and 56 seconds.

Mr. D'AMATO. I thank the Senator and I thank my distinguished colleague, Senator LOTT.

Madam President, promises made, promises broken. How many times have we heard it said, "Well, that was the campaign. It is not serious."

But I think the American people were very serious when they said that they were voting for change. And the change they wanted was not more taxes. It was not more spending. They wanted someone who would call it the way it is.

And here we have now today a promise that was made by Candidate Clinton that he would not raise taxes on those who receive Social Security. As a matter of fact, it was just a little more than a week before the campaign came to an end. It was not a campaign promise made because he was attempting to woo votes. He had that election sewed up. The polls showed him well ahead.

So in a little airport in Arkansas, on the 23d, he said:

> I think you know that raising taxes on Social Security recipients or middle class people when the economy is not growing is an error.

That is exactly what we are doing now. Let me suggest to you that the statistics show the economy is not growing, that we are in trouble.

Why would you want to raise taxes on working, middle-class families as opposed to doing what may be tougher but the right thing, and that is to cut spending?

We have the spendasaurus dinosaur as well as the taxasaurus dinosaur on the loose. I do not know who is going to get whom. But I will tell you what is happening, the middle-class senior citizen is getting hurt. That is why we should vote for this amendment and see to it we help President Clinton keep the promises he made when he was Governor.

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

Mr. MOYNIHAN. Madam President, I yield to the very able member of the Senate Committee on Finance, 1 minute to add to his earlier forcible remarks.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the chairman.

Madam President, it is very simple. This is not an amendment that affects the middle class as the previous speaker indicated. This amendment only affects 13 percent of seniors in this country. Those 13 percent are the most wealthy seniors. They are seniors, on average, who have net worth of over $1 million.

So, really, the speaker was in error in the statement he made. Again, this affects only 13 percent of seniors, not the middle-class seniors, but the most wealthy; that is seniors who have, on average, net worth of over $1 million.

Point 2, the benefits received from this go back to seniors. They go to the hospital insurance trust fund. It is earmarked for their benefit. I thank the Chair.

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

Mr. ROCKEFELLER. Mr. President, as a member of the Senate Finance Committee, I have a keen appreciation of the importance of maintaining confidence in our Social Security System. I have fought to protect seniors and Social Security for years.

In fighting to do so, I have learned how people use the politics of Social Security to score political points.

The Finance Committee, under the leadership of Chairman MOYNIHAN who knows more about Social Security than anyone else in this Chamber, held a hearing exclusively on the Social Security provision in reconciliation. We heard from three panels, including a series of experts on Social Security.

Mr. Bob Ball, a man who has dedicated his professional career to Social Security, gave strong testimony in support of such a provision. Let me share a bit of Mr. Ball's testimony with my colleagues:

* * * I see taxing Social Security benefits, not only as fair but as a way to identify the program with all other earned retirement income, and therefore another way of making clear that Social Security is not welfare but similar to all other earned pensions.

[Bob Ball said:] I believe that taxing Social Security benefits as other retirement income is taxed strengthens the philosophical foundation of the program as an earned right and helps to hold off proposals for means-testing or cutting basic benefits or the cost-of-living-adjustment.

Treating Social Security just like all other benefits paid as a right, rather than giving it special tax treatment emphasizes its special character as a contributory system paying its own way.

None of us in this Chamber like this provision or any provision raising taxes. But if we are honest, we know it must be done to reduce the deficit that is choking our economy and our country.

Fundamental fairness is what is needed in the massive reconciliation package, and I believe our provisions on Social Security changes pass that fairness test.

We protect poor and moderate income seniors by raising the thresholds on taxation. And we earmark the revenue raised from seniors to the Medicare hospital insurance [HI] trust fund, a basic support program for our seniors.

In 1983 before I came to the Senate, a historic bipartisan commission came together to fix the Social Security System. They imposed the current 50-percent taxation level on benefits above a certain threshold. They did it because Social Security was in a financial crisis—people didn't like it, but it had to be done.

A decade later in 1993, we are facing another fiscal crisis—but it's not just our Social Security System—it's our Federal budget. Again, we need to take action to reduce our deficit and avert an economic crisis. None of us like individual pieces of this bill, but it must be done.

I oppose this Republican amendment, and urge my colleagues to do the same.

Mr. GORTON. Mr. President, I rise today in strong support of the amendment offered by my distinguished colleague from Mississippi, Senator LOTT. His amendment will right one of the most egregious portions of the reconciliation bill, it deletes the proposed increase in the portion of Social Security income subject to taxation.

Earlier this year, I asked thousands of my constituents what they thought about President Clinton's proposal to raise the portion of Social Security benefits subject to tax. The overwhelming response from these Washington State residents was clear. They say: Don't raise the tax on Social Security benefits.

I have listened to my constituents and I wholeheartedly agree. Seniors who have paid into the system over their entire working life are seeing their investment slowly erode as the Federal Government takes more and more out of their Social Security check. It has got to stop.

Mr. President, I will continue to be a strong voice for seniors in the U.S. Senate and will continue to work to eliminate this increased taxation on Social Security benefits. I urge my colleagues to stand up for seniors and vote for this amendment.

Mr. PRESSLER. Mr. President, I rise in strong support for this amendment to strike the proposed tax increase on Social Security benefits. As a member of the Senate Aging Committee, I am pleased to be a cosponsor of this amendment. We must ensure tax fairness for our Nation's senior citizens.

Throughout the past few months, I have been inundated with phone calls and letters from concerned South Dakota seniors who are up in arms against this proposed Social Security tax increase. Let me point out that almost 20 percent of South Dakotans are senior citizens, well above the national average of 12.4 percent.

South Dakota seniors are patriotic Americans. They are not opposed to doing their fair share to help reduce the enormous budget deficit. However, South Dakota seniors are angry. Why? Because they will be forced to bear a disproportionate burden in the deficit reduction effort. They have good reason to be angry.

The reality of this budget reconciliation measure is that America's seniors are getting a double-edged sword. First, this budget plan will raise taxes on Social Security benefits from 50 to 85 percent for seniors who earn over a given threshold—$32,000 for individuals and $40,000 for couples. Under current law, these thresholds are $25,000 and $32,000.

Second, our Nation's seniors also will be forced to endure higher gasoline prices due to the proposed 4.3-cent-per-gallon tax increase on transportation fuels. Citizens in my rural State of South Dakota will be severely impacted by this gasoline tax increase. My State does not have the luxury of mass transportation or other alternative means of travel that many urban States enjoy.

In total, these tax increases on top of the other provisions contained in the economic plan will adversely affect the livelihood of America's senior citizens who already are living on limited incomes.

Mr. President, under current law, senior citizens are penalized for remaining in the work force by receiving reduced Social Security benefits. Retirees between 65 and 69 lose 33 percent of their Social Security benefits for every dollar earned over the earnings limitation. I am proud to be a cosponsor of legislation to repeal this unfair practice. S. 30, the Older Workers Freedom To Work Act, would remove the earnings limitation for those who have reached retirement age.

I encourage my colleagues to support this measure. In the meantime, Congress should not impose yet another earnings disincentive.

Let me point out that many seniors cannot afford or do not wish to withdraw completely from the work force.

Some need additional earnings to meet living and health care expenses at a time when their principal sources of income are fixed. Frankly, the proposed Social Security tax increase is just one more penalty imposed on seniors—punishing those earning over a limited income, yet facing unlimited expenses.

During the Senate's consideration of the budget resolution, 47 Senators supported an amendment similar to the amendment we are considering today. At that time, we were only a few votes short of striking the Clinton administration's proposal to raise taxes unfairly on America's seniors.

That vote was one of particular concern to the majority party. In fact, the Senate leadership postponed voting on that amendment until the morning after it was offered in order to have sufficient time to pressure several members of their party who might support our amendment. Guarantees to raise the earnings thresholds were the only way the Democrats could attain enough votes to defeat our amendment to strike the tax increase.

Mr. President, Congress must develop and implement sound, bipartisan approaches to reduce the enormous Federal deficit. Partisan promises for future cuts do not represent long-term answers. There are no easy or painless solutions. However, our Nation's senior citizens should not be unfairly singled out. I urge my colleagues to support this amendment.

Mr. GRASSLEY. Mr. President, the table I have included with my statement today shows the number and percentage of tax returns at particular income levels which will experience a tax increase as a consequence of this legislation.

Note that 705,000 single filers in the income ranges between $30,000 and $50,000, out of 1,293,000, or 54.5 percent, will experience a tax increase as a consequence of this legislation. And note that 1,816,000 joint filers in the income ranges between $30,000 and $75,000, out of 2,674,000, or 68 percent, will experience tax increases.

Mr. President, the chairman of the Finance Committee and the Senator from Montana stated in our debate on this question that the average net worth of the people who would be affected by the proposed tax increase is a million dollars or more. I believe that this figure comes from the Treasury Department.

The clear implication is that most of the people who are going to be affected by this tax are millionaires.

That just isn't true, Mr. President, as I think the tables I included demonstrate. One of the main problems with the figure provided by the Treasury is that it is an average. And it is an average of a very large number of people. The average in this case, I would remind my colleagues, is the total assets held by a particular class, in this case those over 65 years of age, divided by the number of individuals in the class. It is skewed by the small number of ultra high asset people at the high end of the asset and income scale.

And I think most of us understand that assets are highly concentrated in this country. In an article called "Estimates of Household Net Worth" which appeared in the April 1992 edition of a publication of the Board of Governors of the Federal Reserve, the author, Arthur B. Kennickell, concluded that the top 1 percent of the population holds 33 percent of its assets.

The median is a much better indicator of the numbers of people who fall in particular asset ranges. The median is the number below which 50 percent of the individuals in a class falls and above which 50 percent falls.

Let me give an example of how this works for the value of assets. According to an article entitled "Changes in Family Finances From 1983 to 1989," which appeared in the Federal Reserve Bulletin in January 1992, the median value of the assets of those over 55 years of age who were not working was $94,000. In other words, 50 percent of those over 55 who were not working held assets over $94,000 and 50 percent held assets worth less than $94,000. The mean, however, was $211,000, more than twice as much as the median figure.

In an article called "Household Wealth and Asset Ownership, 1988," published as part of the household economic studies by the Bureau of the Census in December 1990, the author, Judith Eargle, found that the top 8 percent in income of those over 65 years of age had a median net worth of $209,000, excluding home equity.

Finally, Mr. President, I want to include with my statement another table. This table is from the 1989 survey of consumer finances done for the Federal Reserve Board. Tabulations were done by Price Waterhouse. This table shows the net worth of people 65 to 74 and 75 and over. For those between 65 and 74, the net worth for those in the $30,000 to $50,000 range varies from $129,836 to $324,679. These figures include the current value of a home. If that value is deducted, the net worth varies from $75,580 to $182,233.

For those 75 and over in these income ranges, the net worth varied from $210,234 to $368,616. If the current value of a home is deducted from those figures, the net worth varies from $94,220 to $245,516.

I am sorry, Mr. President, it is not millionaires who are going to be paying these tax increases. These are not poor people. But neither are they rich by any stretch of the imagination. As I said before, they are the solidly middle class, who worked and saved during their worklives.

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

SUMMARY OF 1989 SURVEY OF CONSUMER FINANCES DATA

[All dollar values are means]

Age group and income class (thousands)	Sample size	Population	Current value of home	Other real assets	Stocks and mutual funds	Bonds	IRA and Keogh	Total paper assets	Net worth
65 to 74:									
Below 10	75	2,714,465	14,685	106,387	2,569	676	535	9,312	130,841
10 to 15	66	2,598,822	50,275	281,392	2,574	856	1,859	22,767	352,216
15 to 20	46	1,898,331	70,611	12,609	5,494	3,745	6,297	36,548	117,251
20 to 25	37	1,395,512	59,389	2,128	4,673	2,839	4,017	46,090	100,790
25 to 30	15	394,379	81,430	648,105	24,386	14,638	21,857	112,148	838,002
30 to 35	18	798,386	54,256	1,240	23,209	16,315	4,491	76,054	129,836
35 to 40	10	282,620	93,534	1,269	19,770	32,008	36,903	202,773	283,488
40 to 50	21	574,917	142,446	50,911	25,795	35,767	23,963	190,015	324,679
50 to 75	25	447,220	129,816	48,665	72,841	45,806	45,552	292,941	450,557
75 to 100	17	291,756	179,506	41,063	45,361	81,972	39,341	270,388	482,282
100+	88	248,055	391,357	1,338,093	385,524	232,981	119,228	1,109,890	2,758,574
All	417	11,644,464	66,874	145,894	18,946	14,233	10,450	83,718	288,649
75 +									
Below 10	81	3,206,933	23,209	538	665	489	0	13,802	37,268
10 to 15	42	1,579,592	50,442	0	3,095	2,393	47	32,856	80,205
15 to 20	33	1,281,913	63,612	0	6,839	7,123	107	53,492	127,178
20 to 25	18	504,617	67,705	4,798	7,937	10,467	427	93,213	165,659
25 to 30	19	491,421	71,321	28,917	6,693	4,127	4,771	85,016	184,552
30 to 35	8	366,237	116,014	0	10,931	7,534	39,786	95,328	210,234
35 to 40	5	168,398	67,858	24,302	55,182	8,215	4,445	181,207	273,284
40 to 50	10	327,656	123,100	37,434	80,348	7,982	1,163	213,461	368,616
50 to 75	9	120,938	131,117	79,802	130,816	40,871	11,899	362,094	569,540
75 to 100	5	53,780	238,446	72,224	111,606	58,082	2,735	690,755	134,479

SUMMARY OF 1989 SURVEY OF CONSUMER FINANCES DATA—Continued

[All dollar values are means]

Age group and income class (thousands)	Sample size	Population	Current value of home	Other real assets	Stocks and mutual funds	Bonds	IRA and Keogh	Total paper assets	Net worth
100 +	31	135,974	242,164	105,399	523,767	384,958	15,131	1,228,410	1,564,385
All	261	8,237,461	55,930	7,597	18,907	10,799	2,685	77,316	135,498

Source: Price Waterhouse calculations.

Mr. MOYNIHAN. Madam President, if I may just conclude. To repeat what the Senator from Montana has said, 92 percent of the people involved here have retirement incomes above $50,000 a year, and the average have a net worth about $1 million.

We are not doing anything more than putting in place a principle that was first proposed in 1979 by the advisory commission and partially put in place in 1983. It was the recommendations of the Greenspan Commission, in which Senators participated, now going fully into effect to establish, again, this essential fact that Social Security retirement benefits are earned benefits. They come because of contributions made. And they are taxed as are all other such forms of retirement benefit.

The trust funds are in solid condition. They will grow by $490 billion in the 5-year window of this bill, this budget reconciliation measure; and that partial increase by the revenues from this measure go to the hospital insurance fund.

We have a solid Social Security System and we are keeping it that way.

Madam President, I move to table the amendment of the Senator from Mississippi and I ask for the yeas and nays on the motion to table.

Would the Senator from Mississippi like a voice vote?

Mr. LOTT. I think not.

Mr. MOYNIHAN. Then perhaps the Senator would have the goodness to raise his hand?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I yield back all remainder of my time.

Mr. LOTT. Madam President, I wish to add the name of Senator HUTCHISON as a cosponsor.

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

Mr. LOTT. Did we get the yeas and nays on the motion to table? That is the parliamentary procedure on the motion to table?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from New York to lay on the table the amendment of the Senator from Mississippi.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announced that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. BENNETT] is necessarily absent.

I also announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—51

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Campbell	Kerrey	Riegle
Conrad	Kerry	Robb
Danforth	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Dorgan	Levin	Simon
Exon	Lieberman	Wellstone
Feingold	Mathews	Wofford

NAYS—46

Bingaman	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Packwood
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Heflin	Shelby
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thurmond
DeConcini	Kempthorne	Wallop
Dole	Lott	Warner
Domenici	Lugar	
Durenberger	Mack	

NOT VOTING—3

Bennett	Murray	Specter

So the motion to lay on the table the amendment (No. 516) was agreed to.

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

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

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Under the previous order, the Senator from Nebraska [Mr. KERREY] is recognized to offer an amendment.

Mr. METZENBAUM addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska.

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

Mr. METZENBAUM. Will the Senator from Nebraska permit me to go forward to eliminate a portion of the bill that has been agreed upon between the Republicans and the Democrats?

Mr. KERREY. How long will the distinguished Senator need to do that?

Mr. METZENBAUM. Two and a half minutes.

Mr. KERRY. Two and a half minutes.

Mr. METZENBUAM. No more.

I thank the Senator.

Mr. FORD. Madam President, I ask unanimous consent that the Senator from Ohio may proceed and that the Senator from Nebraska then follow after that.

The PRESIDING OFFICER (Mrs. BOXER). Is there objection?

Without objection, it is so ordered. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I thank my friend and colleague from Nebraska very much.

AMENDMENT NO. 517

Mr. METZENBAUM. Madam President, I at this time, along with Senator KASSEBAUM and Senator KENNEDY, offer an amendment to strike the provisions in the Budget Reconciliation Act relating to civil penalty authority for violations of ERISA.

Several weeks ago, the Supreme Court, in an unexpected 5-to-4 decision, held that ERISA did not clearly articulate the relief available for violations of the pension and welfare benefits law and a majority of the Court refused to impute the money taken in damages to make aggrieved individuals whole.

The Department of Labor believes that this decision may have serious effects on its ability to enforce the law and to protect the tens of millions of workers and retirees covered by employee benefit plans, and particularly the Department is concerned that litigation pending against individuals who bought speculative retirement annuities from the now bankrupt Executive Life Insurance Co. may be jeopardized.

The Senate Labor Committee included provisions in the budget reconciliation bill, the bill we are presently considering, to remedy this decision.

Now, upon the agreement of Senator KASSEBAUM and myself and Senator KENNEDY, the chairman of the committee, we have agreed not to seek relief through the budget process and instead introduce legislation next week to ensure that litigation for improper annuity purchases is not jeopardized. We

plan to hold hearings and move the bill as quickly as possible. Eighty-four thousand workers and retirees are holding on to Executive Life annuities and have been waiting for over 2 years for assurances that their retirement security will be protected.

Senator KASSEBAUM and I have worked together on this issue in the past. We are both committed to protecting workers and retirees. It is our intention to move quickly to protect these individuals. I also expect the Labor Committee to move expeditiously to favorably consider more comprehensive legislation to amend ERISA to make its protections meaningful to workers and retirees.

Mrs. KASSEBAUM. Mr. President, during the markup by the Senate Committee of Labor and Human Resources, several Senators, who voted against inclusion of this provision as part of the budget reconciliation package, stated their willingness to address the Executive Life retirement annuity situation in a separate piece of legislation and to do so on an expedited basis.

I am pleased that the sponsors of this legislation have decided to withdraw the provision. We will seek to address the Executive Life annuity situation in a targeted manner and on expedited basis. I am confident that we can all agree on legislation that will accomplish this goal and to mutually work toward its swift enactment.

Mr. KENNEDY. Mr. President, I rise in support of Senator METZENBAUM and Senator KASSEBAUM's motion to strike those provisions in title 12, subtitle D, chapter 2 of the Budget Reconciliation Act. These provisions would have added a new civil penalty for violations of the pension and welfare benefits laws in civil suits brought by private litigants and would have clarified the availability of certain kinds of monetary relief for violations of the pension and welfare benefits laws.

A week ago, because of a June 1 decision of the Supreme Court in Mertens versus Hewitt, the Labor and Human Resources Committee, at the request of the Department of Labor, voted in our markup of the Labor Committee portion of this bill, to address the problems created by the Mertens decision as quickly and as cleanly as possible. We did so particularly in order to ensure that the plaintiffs in cases stemming from the collapse of the Executive Life Insurance Co., which left thousands of workers holding retirement annuities purchased from Executive Life, would be able to salvage their pensions.

As many of my colleagues are well aware from a number of hearings Senator METZENBAUM has held and because of the impact on hundreds and thousands of pensioners in their States, Executive Life involved a situation where employer-fiduciaries terminated their company pension plans and purchased in their stead insurance annuities to pay out the workers' pension benefits. The employers did this despite the fact that it was well-known that Executive Life was over 60 percent funded by junk bonds.

In 1991, Executive Life was forced into bankruptcy. As a result, the beneficiaries have lost some of their pension benefits and they live month to month not knowing if they will be able to collect the full value of the pensions they were promised.

The responsible fiduciaries who had been advised that the substitution was not a safe investment, and who are themselves persons of significant means, should be held responsible for their actions and should be required to provide the full worth of the pensions which these working men and women were promised.

In Massachusetts alone, at least 404 workers from Grinnell Corp., 115 workers from Henry Hanson and 196 workers from Widden Hospital worked for companies who purchased Executive Life annuities.

Other litigants are in similar positions. Their ability to obtain the full value of their annuities is also threatened by recent court decisions which provide that beneficiaries of retirement plans which have been terminated no longer have standing to challenge those violations.

Instead of seeking relief through the budget process, we have agreed to work together on what we hope will be bipartisan legislation to address these pension annuity problems. We intend to hold hearings expeditiously, and to seek early action on such legislation by the committee and the full Senate.

I commend both Senator METZENBAUM and Senator KASSEBAUM for their cooperation in this matter. I am hopeful that the committee will soon bring forward legislation to ensure that pension promises are kept.

Mr. DODD. Mr. President, I rise in strong support of the agreement reached by Senators METZENBAUM, KENNEDY, and KASSEBAUM on this important provision.

First, I must compliment them on their efforts to hammer out this compromise. ERISA is not a simple issue, but few issues are of more importance to workers and to businesses—it impacts on employee benefits across the board from pensions to health care.

Nothing demonstrates this as clearly as the issue before us today, involving the pensions of thousands of Americans affected by the collapse of the Executive Life Insurance Co. several years ago. I would note that this is an issue of deep concern to me, because nearly 2,400 pensions in Connecticut are awaiting the outcome of one of the suits possibly affected by the Mertens decision.

However, the Mertens decision is only a few weeks old and I for one appreciate the extra time this agreement provides us with to continue to work on this matter in a reasoned and constructive way.

I look forward to continuing to work on this matter and assuring a fair and equitable result for these workers.●

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk red as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mrs. KASSEBAUM, and Mr. KENNEDY, propose an amendment numbered 517:

On page 865, strike from line 16 through to page 870, line 24.

The PRESIDING OFFICER. If there is no objection, all time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 517) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Madam President, I very much appreciate the Senator allowing me to move forward on this matter.

The PRESIDING OFFICER. Under the order, the Senator from Nebraska is recognized.

Mr. DOMENICI. Will the Senator from Nebraska give me 30 seconds on my own time?

Mr. KERREY. I will be glad to yield 30 seconds.

Mr. DOMENICI. I thank the Senator very much.

I wish to thank Senator METZENBAUM. This could have been a very contentious issue. I believe he will have time to make his case in the normal manner. It did not belong in this bill, and he has graciously consented here today to do the removal himself. I thank him for that.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nebraska is now recognized.

AMENDMENT NO. 518

(Purpose: To amend the Internal Revenue Code of 1986 to establish a National Health Care Trust Fund)

Mr. KERREY. Madam President, I send an amendment to the desk and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY] proposes an amendment numbered 518.

Mr. KERREY. Madam 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 title VIII and the following new subtitle:

Subtitle C—National Health Care Trust Fund

SEC. 8301. NATIONAL HEALTH CARE TRUST FUND.

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. NATIONAL HEALTH CARE TRUST FUND.

"(a) TRUST FUND ESTABLISHED.—

"(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Health Care Trust Fund', consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section, section 9602(b), and section 1840 of the Social Security Act.

"(2) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby transferred to the National Health Care Trust Fund amounts equivalent to—

"(A) 100 percent of the taxes imposed under sections 1401(b), 3101(b), and 3111(b),

"(B) 100 percent of the taxes imposed under chapters 51 and 52,

"(C) 19 percent of the taxes imposed under sections 3201(a), 3211(a), and 3221(a), and

"(D) 29.125 percent of the taxes imposed under chapter 1.

"(3) TRANSFER OF FUNDS.—All amounts, not otherwise obligated, that remain in the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund on the first day of the fiscal year 1994 shall be transferred to the National Health Care Trust Fund.

"(4) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated and are appropriated to the National Health Care Trust Fund such additional sums as may be required to make expenditures referred to in subsection (b).

"(b) EXPENDITURES.—

"(1) IN GENERAL.—All expenditures to meet the obligations of the United States to provide, directly or indirectly, health care (including the provision of health care facilities and of education or educational assistance related to health care professions) under any provision of law, including—

"(A) under the provisions of title XIX of the Social Security Act, and

"(B) in accordance with the provisions of authorization and appropriations Acts that relate to programs, projects, and activities, under the provisions of—

"(i) title XVIII of the Social Security Act,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code,

"(iv) chapter 89 of title 5, United States Code,

"(v) the Indian Health Care Improvement Act, and

"(vi) the Public Health Service Act,

shall be made only from amounts in the National Health Care Trust Fund.

"(2) INCORPORATION OF MEDICARE TRUST FUND PROVISIONS.—The provisions of subsections (f) through (i) of section 1817 of the Social Security Act (42 U.S.C. 1385i) and subsections (f) through (i) of section 1841 of such Act (42 U.S.C. 1395t), as in effect on the day before the date of the enactment of this section, shall apply to the National Health Care Trust Fund in the same manner as such provisions apply to the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, respectively, except that any reference to the Managing Trustee shall be deemed a reference to the Secretary.

"(c) ANNUAL REPORT.—The Secretary shall make the annual report required by section 9602(a) not later than March 1 of each year. Such report shall be submitted to the Committee of Ways and Means and Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and Committee of Labor and Human Resources of the Senate."

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE.—

(1) Sections 1817 and 1841 of the Social Security Act (42 U.S.C. 1395i and 1395t) are hereby repealed.

(2) The Social Security Act is amended by striking "Federal Hospital Insurance Trust Fund" and "Federal Supplemental Medical Insurance Trust Fund" each place they appear and inserting "National Health Care Trust Fund".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9510 the following new item:

"Sec. 9511. National Health Care Trust Fund."

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1993.

Mr. KERREY. Madam President, the object of this effort, this budget reconciliation effort, is to reduce this Nation's dependence upon the debt-financed purchases that we decide we want to make very single year here in Washington. The idea is that, by relying less upon debt, we will increase the amount of savings in America, that savings will translate into an increase in the amount of capital stock in America, and that capital stock will result in an increase in output, and that output will translate into the standard of living for the American people. That is the object of this exercise, I assume.

Madam President, in 1990, when we had a similar adventure, we passed a piece of legislation. At that time President Bush signed the legislation. There was a great deal of political turmoil because he ended up breaking a promise that he had made in the Presidential campaign. He took a lot of heat for having done it—done, in my judgment, the right thing, finally saying the deficit is a terrible drain upon savings and, as a consequence, a drain upon output and, as a consequence, it reduces long-term standard of living.

I must say, Madam President, that one of the things that troubles me about the current debate is that we very rarely reference that 1990 budget agreement for a variety of reasons. One of the reasons is that we do not want to acknowledge that the reduction of long-term interest rates today might be connected to that vote. For obvious political reasons we, as Democrats, want to lay claim that lower interest rates have occurred as a consequence of some statements that Secretary Bentsen made in December 1992 about this administration's seriousness regarding deficit reduction.

I do not doubt that President Clinton's commitment to deficit reduction has had a positive impact upon the bond market and long-term interest rates. I also believe that the budget agreement of 1990 had an impact upon long-term interest rates as well. If it did not, if there are some here, particularly on this side of the aisle, who are prepared to argue that it did not have an impact, that all we need to do is make a statement about being serious about deficit reduction, why would I ever want to vote for deficit reduction? It is far more beneficial for me merely to talk about deficit reduction.

I believe the 1989 budget agreement did have an impact, not as great as was promised, but not as great for one very important reason; that is, we failed in 1990 to put in place mechanisms that would control the cost of Federal spending on health care.

We have had several attempts—a recent amendment offered by the Senator from Tennessee earlier on the budget resolution, and an unsuccessful effort on behalf of Senators NUNN and DOMENICI, which I supported—to put a cap on the growth of spending of the Federal health care program.

Some of my colleagues on the other side of the aisle have said that the additional $19 billion over the next 5 years that we are proposing to reduce out of Medicare spending will be draconian, will fall particularly heavy upon providers. Senator DURENBERGER yesterday had, I thought, some very good points to make about the potential negative impact on rural hospitals that have a high percentage of patients that come with Medicare reimbursement.

Madam President, the issue at hand is, do we spend $950 billion over the next 5 years or $930 billion over the next 5 years? Hardly, it seems to me, a difference that would cause people to say that one is particularly onerous and the other is not. The fact is, I think we hyperventilate far too often when it comes to health care spending. But I must say, Madam President, if this particular proposal still contains the same kind of flaws the 1990 budget dead had, we cannot really expect, unless we pass campaign health care reform—and we have not done that yet—unless we pass comprehensive health care reform, we cannot expect that this 1993 deal will solve the problem that we had in 1990. I must tell you that those of us who voted for the 1990 proposition, promising to produce $450 or so billion of record deficit reduction, now have a little egg on our face because, in fact, it did not work, because the health care expenditures grew much more rapidly than we anticipated.

This amendment is a Federal health care trust fund. It works in a rather simple way. It says that we will put all

health care spending at the Federal level into a single account, allowing the programs to continue unchanged. We will have some that will be mandatory, some that will be discretionary.

I will get to the problems that that creates—not problems to me, I must say—to hear once again the argument, well, this will louse up the legislative process or something like that.

What we simply do for the American people is to say we will account for every single health care dollar, and that, as a principle, we agree as citizens that we are going to have a pay-as-you-go system. If the American people demand from us x amount of spending on health care, we are obligated to say to the American people that we are going to raise x dollars in taxes and pay for that expenditure.

We will say that with health care, at least, it is wrong to sell bonds to pay the bill, it is wrong for us to deficit finance health care. This year, that ends September 30, we will spend about $284 billion total for all Federal health care spending, and given that we have deficit financed somewhere around 17 to 20 percent of everything that we spend, one can then extrapolate from that and say approximately $60 billion of the spending on health care is done as a consequence of a bond sale.

We may go home to our good citizens and say to them that we are not going to cut their programs. That is all well and good. But I do not think we should cause them to suffer under the illusion that they are paying the bill because they are not. Sixty billion—let us assume that you can sell those bonds at 4 or 5 percent interest rate today, let us assume it is 4 percent. That means $2.4 billion of additional interest will be added to the national debt to pay doctor and hospital bills for us in this current year.

Madam President, I simply say that is wrong. I am proposing with this health care trust fund that we end it. It will do three things. It will say to the American people, first of all, here is how much we are spending. Do not suffer under the illusion we are not spending a lot of money. A lot of people will say, we do not want a big Government takeover of health care. I have heard audiences rise to their feet and give a warm, thunderous round of applause when the speaker says, "Let us get the Federal Government out of health care." On average 40 percent of the hospital operating revenue comes directly from the Federal Government. Another 50 percent, Madam President, comes as a consequence of a subsidy that we provide because health insurance is tax deductible. Ninety percent of the hospital's revenue is third-party pay, hardly what I would call a free market system. The Federal Government's expenditures for health care this year represents $284 billion. We should present a full bill of lading to the American people so they can see how the money is being spent.

I secondly say, Madam President, that we should designate which taxes we are going to use. I believe that also produces a healthy argument. Which taxes do we want to use to pay the health care bill? Do we want to use the payroll tax? Do we want to use the income tax, cigarette, alcohol tax? Which tax do we want to use and which taxes are we prepared to designate to pay the bill rather than getting in the argument, as I have often heard people say, "We don't want new taxes to pay for health care." They do not understand how many of their tax dollars are currently being used.

As you see in this proposal, I designate the 3 percent payroll tax that is currently in place to pay for Medicare part A. I have actually had people say to me, "I am against the 3-percent payroll tax," not realizing that 2.9 percent of their payroll today is already being collected, brought to the Federal Government and used for health care spending.

These charts have been on the floor before in many different hands and many different shapes and configurations and colors. One more time.

This is current Federal health care spending and how we are collecting and paying for those bills. We are borrowing about $37 billion, using general revenues of $140 billion, and we have payroll taxes for $91 billion.

Madam President, what I am proposing with this health care trust fund is very specific. I am saying we should create the fund, but in all the spending accounts in this account, we should designate a 3-percent payroll tax that is already being collected. We should designate a Federal health insurance premium that is already being collected. We should designate all alcohol and cigarette taxes that are already being collected. We should designate 29 percent of the income taxes being collected and the corporate income taxes already being collected.

Madam President, I am not calling for new taxes with this proposals. I am arguing that it is time for us to designate which tax it is we are going to use and not fool the American people into believing that somehow we do not use tax revenue to pay the bills.

If we put all health care spending into one account, just so the American people understand what is going on with health care, and why the 1990 deal did not work, and why 1993's Budget Reconciliation Act is also in jeopardy of being successful, this is what will happen with all spending.

Beginning next year, 1994, it is about $318 billion. We go to $350 billion the following year, and we grow until 1998 when we are almost at 500 billion dollars' worth of total spending.

I need to get my friend some glasses so he can see it from a distance, or write my charts larger.

That is the growth of all of the Federal health care spending.

I call my colleagues' attention to this because, very often, in the enthusiasm of talking about the draconian cuts under the worst-case scenario, we are proposing to shave these expenditures back merely at the margin. We have a dramatic increase forecast in spending for all of Federal health care, under all scenarios, over the next 5 years.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. KERREY. Madam President, the next thing I would like to show my colleagues is the impact of saying we have a pay-as-you-go system; we will pay the bills as we go. These are the estimated impacts by the Congressional Budget Office—a very dramatic increase in greenbacks, stacked up there. The specific numbers are that over the course of a 5-year period, under which we are now forecasting revenues and expenditures under this Budget Reconciliation Act, merely balancing our accounts for health care expenditures would produce an additional $150 billion over that 5-year period of deficit reduction.

But most importantly, we can say with certainty to the people—and not with draconian caps, or some phony gimmickry, but with real budgeting and taxing—we are going to pay for our health care bills. And, at least with this account, we may not be able to be certain that these new taxes are going to generate the revenue; we may not be certain that this is going to work. At least, we will no longer have to fear, with this account, that our voting is going to come unraveled as a consequence of rapid increases.

(Mr. REID assumed the chair.)

Mr. KERREY. Mr. President, these are the deficit projections that we have been given. These are the baseline figures that CBO has provided us, without any action on the part of President Clinton.

These yellow bars on the chart are the actions suggested by President Clinton, if we pass this reconciliation bill, down through 1994, 1995, 1996, and 1997; and starting back up in 1998 and 1999. With the health care trust fund, it continues on down, and the deficit not only is $150 billion lower over the course of that 5-year period, the deficit will continue to go down in the outyears.

I see others here who, I suspect, want to offer observations in the negative about this.

I reserve the remainder of my time and will allow some rebuttal, if they choose to.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise to oppose this amendment. I do so with more than ordinary regret, because as I stand here looking at my friend from Nebraska, I see not only a friend who is a very important and personal friend to me as a Senator, but also as a human being. And I see somebody who went out on the trail, so to speak, when a lot of others declined to do so, and fought the health care fight when others would not. He was passionate.

I can remember, in one of the Presidential debates—my wife runs WETA, a public television station in Washington, DC—the Senator from Nebraska was there debating with Candidate Clinton, Candidate Tsongas, and Candidate HARKIN. I remember, because I was watching him in his passion and his commitment, and it was deep and real.

When I look at the Senator and talk about the Senator, that is one of the things that comes to me—that there is honesty, integrity, and commitment about health care, and about everything else we do, which I say is classic midwestern; and I say that in part because of the nature of my wife, who is from Illinois, and the honesty and integrity of all that.

I still have to oppose it, because I think what the Senator is doing is putting more faith in our colleagues on major budget decisions than I can. If you look at all of the entitlement programs, in general, since 1975, I think I am correct in saying that, other than Medicaid and Medicare, they have risen only at about 1.1 percent a year, which is pretty good. They are pretty much under control. But Medicare and Medicaid are an entirely different story. The Senator knows they are now enormous programs.

It is my view, in opposing this amendment, reluctantly, that what the Senator is in effect doing is creating the same type of entitlement cap situation that we have voted on before in this body. And what the Senator is in effect doing is saying that all of the other entitlements are basically at about a 1.1 percent annual increase, and that is pretty much under control; that all the weight of the cuts will be on Medicare and Medicaid.

That is a battle that I have been living with for the last 3 weeks; and was living with up until about half an hour ago; and am still living with, because that involves the poor, the elderly, the frail, the disabled, and the people that my friend from Nebraska knows so well.

Therefore, what I fear is that these areas would take savage cuts underneath what the Senator is proposing. The Senator, because he is a good person and an honest person, believes, I think, that by putting this to our body and saying let us face up to this—to what the amount is, and how it is we are going to pay for these, and what we are going to cut and how—putting them together in one package so we see the entire framework is the honest thing to do.

But in the 8 years I have been in the Senate, I have seen, time, after time, after time, our colleagues who maybe do not have the same honesty or the same—I use this word figuratively, so to speak—integrity in the terms of programs that the Senator from Nebraska has, come in and see a large pot of money at the end of reconciliation, and they have to make mass decisions; they see lots of dollars in Medicare and Medicaid, and they just cut them.

They just cut. And they just chop off. There is no real sense as to allocation based upon what is the right thing to do, how much should we spend on this particular program, on that particular program, or on Medicaid. Last year, a disproportionate share of hospitals, for example, went from $1 billion in 1991, to $16 billion 1992, as part of the point that my friend is talking about, this disproportionate share of hospitals—that would say that if the Senator would come in and really cut that.

My proposal is that we should look at what the Senator is talking about within the context of health care reform.

The Senator knows—and I think the Senator feels—approximately the same way about me as I do about him, but I will leave him just to make up his mind on that. I think the Senator knows how committed we both are to health care reform. This is a matter which belongs in this arena. It belongs in that arena.

And for us to put this on a pay-as-you-go basis, it is all there so we can see it, and our colleagues, therefore, will raise the taxes as necessary, because it is going to be pay as you go, and our colleagues will do the right thing. The Senator overestimates our colleagues. If our colleagues were all as the Senator from Nebraska, there would be no problem, but they are not.

I sit on the Finance Committee, and I know what happens to the Medicare cuts and to the Medicaid cuts. Medicare is $150 billion, in effect, and Medicaid is $80 billion—$230 billion. That is an enormous target, and budget cutters, Finance Committee members, and others and Members of the Senate will see that, and they will chop.

It will be the old, it will be the poor, it will be the elderly, and it will be the disabled who will suffer, not because the Senate will want that to happen but because the Senate, in its lack of attention, will just simply have that happen.

The Senator knows as well as I do that the problems in health care have a lot to do with inflation—health care inflation—and it has to do with the new numbers of people who qualify; new numbers of people who qualify for Medicare, new numbers of people who qualify for Medicaid, new technology, new all kinds of things, which we cannot control unless we do all of this in the context of health care reform.

So, what I would appeal to my colleagues is to say that what the Senator is proposing makes sense in theory, but is very, very dangerous in fact. My judgment would be, that if we did that, Medicaid and Medicare would take the kind of cuts that are disproportionate to what ought to be done, and in addition to that, our colleagues in the Senate would not raise the taxes to do the pay-as-you-go approach that the Senator from Nebraska contemplates.

That would be a terrible tragedy. Lumping all the funds together could provide some of our colleagues with the chance to do what they do best, which is to talk in terms of the large numbers which are out there, the large numbers, and then they would make changes and cuts, not based on families, not based on cities, not based on individual programs, not based upon the intricacies that lie in Medicare A or B or Medicaid. As the Senator knows, there are endless numbers of parts of these programs. Senators would come in, and they would just slash blindly and cause, I think, great destruction.

Having said that, there are other factors. I understand why the Senator includes the Veterans' Administration in this particular amendment. But I want the Senator to understand, as chairman of the Veterans' Committee, that the 27 million veterans of the United States are afraid of one thing more than anything else; that is, what we are going to do and what, in fact, is done in this amendment, is include the Veterans' Administration together with all other national health care programs. That is what 27 million veterans fear more than anything else, because they saw it happen in Canada.

When Canada moved into a single-payer system, in fact, they absorbed the veterans administration system in Canada, and the veterans lost the health care system which, in fact, is a good health care system, which produces health care at 30 percent less per incident than is done in non-VA hospitals.

But the VA would be included in this. There would be a terrible reaction on the part of veterans in this country for doing that.

So I want to suggest that this is very much of a top-down approach as opposed to a bottom-up approach, and as such I think is of great concern.

I agree with what the Senator is talking about, to discipline Federal health expenditures by requiring all spending to be done on a pay-as-you-go basis. That is great. But I do not believe that the Senate, or the Congress, is ready to do that properly. I would

like to say I think they would, but I do not think they will. The theory is good, but the practice would be bad and people would suffer needlessly, plus that fact that I really think that is what ought to be done in health care reform.

So, I would respectfully suggest to my friend from Nebraska that I admire what he is trying to do here; that he is doing it in good faith; he is doing it with an honorable conscience. But he is doing it with potentially devastating results given the nature of the political process as it now is.

So the question is, can the Senate and the House be taught fast enough by the instruction that the Senator from Nebraska gives to us through his amendment, so that all of these pay-as-you-go and lumping everything in together could be handled fairly, calmly, wisely. They could be, but by the Senator from Nebraska. But we are not at the point yet where they can by the Congress as a whole.

When we do health care reform, then we take on all these matters. But we cannot get to health care reform until we get past this.

So I rise to oppose the Senator's amendment. But I do so, again, repeating the profoundly deep respect that I have for the Senator from Nebraska, both in his intent and what it is he is putting before us today.

The PRESIDING OFFICER. The Senator from West Virginia has 18 minutes remaining. The Senator from Nebraska has 15 minutes remaining.

Mr. KERREY. Mr. President, in the amount of time I have remaining, I return the compliment the Senator from West Virginia just paid me. I also have a great deal of respect, admiration, appreciation, and shared interest in trying to form comprehensive health care for the United States of America so that those of us who have been given a right to health care, which is most of us here in this body, can go to bed at night with comfort knowing that all Americans are in the same boat. I share that interest, though I am not quite certain I would rather have him dislike me and support the proposal. I appreciate very much that he and I are on the same side trying to fight for comprehensive health care that would establish a right to health care for all Americans.

I say to my colleagues who are interested in health care reform and would like to see it enacted this year, next year, or as soon as possible, that one of the largest barriers we have in persuading the American people we ought to do this, is that they do not trust the Federal Government. Indeed, dare I say, they do not trust the Members of Congress can do the right thing. I mean, I fear that some of the arguments in opposition to this proposal are the very arguments that will be used by opponents of comprehensive health care reform.

Mr. President, I just believe strongly that until we are able to say to the American people we are being honest with you, here is how much we are spending; until we can say to the American people we are being honest with you, we are paying for all the bills and here is how we are paying for the bills; until we can say to the American people we are being honest with you, we are not deficit financing health care any longer, I just must tell you I think we are going to have a difficult time persuading the American people that we ought to do health care reform.

I see this amendment as something that not only constructively reduces the deficit, which is why I am adding to this to cut away some of the misgivings that some of us have based upon having voted for the 1990 budget agreement, after which we saw health care expenditures rise rapidly wiping out—in some instances, not all—the benefits we thought would occur.

This lays a foundation for health care reform because it puts us in a position where we are being absolutely clear to the American people where the expenditures are, absolutely clear to the American people that we will not deficit finance health care, absolutely clear to the American people which taxes we are going to use to pay the bill.

I appreciate the concern that the distinguished Senator from West Virginia has.

I acknowledge the possibility for mischief. But I must say, Mr. President, that the mischief that already goes on with health care is so large that it is hard for me to imagine a situation where we are required to tell the American people the truth that mischief alone, or bad intentions alone, could cause our health care accounts to be abused in the fashion that was just described by my good friend, the Senator from West Virginia.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Will the Senator from West Virginia yield me 5 minutes?

The PRESIDING OFFICER. The Senator from West Virginia controls 18 minutes.

Mr. ROCKEFELLER. I am happy to yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. I thank the Senator from West Virginia.

Mr. President, I want to commend my colleague from Nebraska for the commitment and effort he has put into the issue of health care reform. He cares deeply about this issue, he has worked hard within the Senate and in the country to move it forward, and I know he will continue to give high priority to comprehensive health care reform when we take up the President's proposal.

Nevertheless, I disagree strongly with him on this amendment, and I urge its rejection.

The proposal has four serious flaws. First, it would seriously undermine vitally important health care programs—including Medicare and Medicaid, the National institutes of Health, childhood immunization, community health centers, and health prevention.

Second, it would distort congressional decisionmaking on the budget by forcing health programs to be considered in isolation.

Third, it would hold the health of the American people hostage to the business cycle.

Fourth, it perpetuates the myth that the problem is excessive increases in Federal health spending, rather than the out-of-control health system itself. It would divert attention from the need for real reform.

Under this proposal, there will be a shortfall in revenues to fund health care by $13 billion in the first year. The shortfall will unquestionably grow to even larger dimensions in future years. The impact of that shortfall will be severe if this amendment is adopted.

We could raise taxes under the amendment, but we all know how difficult that will be. We could cut Medicare and Medicaid. But we could not make cuts on this scale without devastating these programs. Most of us—including some on the other side of the aisle—feel that the cuts in Medicare and Medicaid, included in the bill we are considering today, are already too deep. Next year these cuts add up to $3.8 billion. To make up the shortfall under this amendment would require cuts three times as deep next year as those included in the reconciliation bill this year.

To cut an additional $13 billion out of these programs in just 1 year would require us to deny senior citizens the care they have earned by a lifetime of hard work. We would have to tell poor women and children that there is no room at the health care inn. And, after doing all that, we still would not have done enough to meet the requirements of this amendment.

What else could we do to meet the targets under this amendment? We could wipe out the National Institutes of Health—that would save $10 billion, not enough to cover the shortfall. We could eliminate the Centers for Disease Control—that would save an additional $2 billion. And if we threw in the Community and Migrant Health Centers, Family Planning, Healthy Start, and the National Health Service Corps, we would finally reach the $13 billion target.

Then we would have to make good an even larger shortfall the following year. We could turn to health professions, the Ryan White AIDS Care Program, Health Care for the Homeless,

and the Food and Drug Administration. We might raise $1 or $2 billion that way.

Pitting one health program against another health program, as this amendment requires, would distort any attempt to determine national priorities rationally. It would say that we should cut health care without considering whether cuts in other spending would make more sense. It would say that we should deny senior citizens the care they have earned before we reduce other subsidies. It would say that poor children should be denied the health care they need before we would consider other programs. It would say that medical research is unimportant. We may in fact make all these judgments in this Chamber. But this amendment would put all those determinations on automatic pilot—and that does not make sense. We would be denied the opportunity to consider these programs in light of our overall priorities.

The amendment would also hold health care hostage to the swings in the business cycle. Veterans, senior citizens, the disabled, and the poor continue to need health care, even if the economy is in one of its periodic downturns. But under this amendment, if revenues decline or grow more slowly—as they always do in a downturn—health care would have to be cut back. And a tax increase during a downturn, even if it could be passed, would not make economic sense.

Worst of all, this amendment ignores the basic problem. Federal health care spending is not going up too fast because we have not put all the health programs in a trust fund. It is not driving up the budget deficit because senior citizens of low-income mothers and children are getting more health care than they deserve. It is going up too fast because the health care system is out of control, and the cure for that problem is comprehensive reform.

So I urge my colleagues to vote against this amendment. It will hurt the poor and elderly. It will dry up our medical research effort. And it will not solve the problem.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who now yields time?

Mr. KERREY. Mr. President, I yield 5 minutes, or whatever time is needed, to the senior Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for whatever time remains.

Mr. EXON. I thank my colleague from Nebraska.

Mr. President, I have a rather unique position. Therefore, what I say today on health care should be accepted from that rather unique position.

I had a meeting last week—a very interesting meeting—for an hour and a half with the First Lady of the United States to discuss health care. I opened our conversation, when I said, "Mrs. Clinton, I come here as a rather unique individual. I am one person who has no health care plan that I have advanced."

And the First Lady said to me something like: "You are one in a million."

I said "No, I am only one of 535 people that have the authority to make introductions of health care legislation."

I say that to try and put in perspective the brief remarks that I am going to be making in support of the amendment offered by my great friend and colleague from Nebraska, Senator KERREY.

I have been studying the various health care plans. I am convinced that there is an overwhelming demand and an overwhelming anticipation from the American people that if there is one thing we are going to do in this Congress sometime, hopefully, this year—if not this year, next year—is come forth with some kind of a health care plan as was envisioned, authorized, and talked about during the campaign for President of the United States, first by my colleague from Nebraska, and then certainly by the then Governor of Arkansas and now the distinguished President of the United States, Bill Clinton, and others. Therefore, the issue is at hand.

I guess I have been somewhat dismayed that it has taken us so long to come up with at least the formula, the framework, if you will, of some kind of a plan that we could then begin discussion on.

What my colleague from Nebraska is attempting to do with the amendment he is offering to the U.S. Senate—hopefully, if it is accepted here, likewise it would be accepted on the House of Representatives side—is to restore some confidence in the American public that we are not going to break the Federal bank or their bank with health care costs.

I suspect that health care costs may exceed what the fund that my colleague from Nebraska would create with this amendment. But that does not mean it is not a good idea.

What the Senator from Nebraska is simply saying with his amendment is that if we are serious about health care reform, then it is not too early right now to begin building the confidence of the people of the United States by recognizing and setting aside initially how much money we are taking in now, to set that aside in a trust fund, if you will. I hope that we can build some steep walls 2 miles high and 15 or 20 feet wide so that we cannot get in there and take the money out.

But, in any event, the basic thrust of the amendment of the Senator from Nebraska is simply that he is trying to create a reasonable trust fund, based on what moneys we are currently spending for health care in the United States, as a pot, if you will, a designated fund, if you will, that has the people of the United States understand how much we are spending at the present time and, therefore, better educate them as to the give and take that is going to have to be moving forward in both the Senate and the House if we are going to get anywhere with health care reform.

The building block that my friend from Nebraska is advancing here today is a very sound building block. I think he would be the first to concede it does not answer all the questions. The plan that he offers is not the end of anything, but it is a beginning. And the beginning is that we are never going to create a universal health care system in the United States unless we begin to give some assurances to and thereby obtain the confidence of the American people as we move forward.

I recognize my colleague from Nebraska has put in a great amount of time on this issue. He understands it very well. We may not all agree with everything he will advance but certainly the first step forward that is being made today on this important issue is one that will pay handsome dividends in the future for all of us as we try to move forward with this very difficult problem.

I thank my friend from Nebraska for yielding the floor and I reserve the remainder of any time remaining.

The PRESIDING OFFICER. The Senator from Nebraska controls 6½ minutes. The Senator from West Virginia controls 13½ minutes.

Who yields time?

Mr. DOLE. Mr. President, will the Senator from West Virginia yield?

Was leaders' time reserved?

The PRESIDING OFFICER. It has been reserved.

Mr. DOLE. I wonder if I might use 5 minutes of my leader's time without it being changed to either side.

The PRESIDING OFFICER. The Senator has that right individually. The Senator may proceed.

THE PRESIDENT'S DEFICIT REDUCTION PACKAGE

Mr. DOLE. Mr. President, during the ongoing debate on the President's deficit-reduction package, there have been no shortage of comments from all sides about the plan. That is to be expected. But when certain critics try to masquerade their own bias, or start assigning motives to Senators, then it is time to set the record straight.

Let's start with some of the phony analysis we're hearing from some of the phony experts.

Yesterday, the Philadelphia Inquirer ran an article that supposedly weighed the pros and cons of the Clinton plan and the Republican alternative. Not surprisingly, the Clinton plan is judged the winner. And not surprisingly, my good friend, the distinguished majority leader, Senator MITCHELL, used the Inquired story during an interview on CNN to back up his claim that the President's plan was a winner.

Now, that is a tough chore, I will admit, but the comments he quoted in

the news story sounded persuasive. Senator MITCHELL read a quote from a Mr. Stanley Collender, who is identified in the inquired article as the Director of Federal Budget Analysis for Price Waterhouse. Mr. Collender says that President Clinton's budget is—and I quote—"More honest than any other budget I've seen in a decade." And then he goes on to say that Senator DOLE's attack is—and I quote again— "very misleading."

No wonder Senator MITCHELL smiled as he read these comments.

Well, as Paul Harvey says, here is the "rest of the story."

While it is true Mr. Collender is an analyst for Price Waterhouse, we did not hear anything about this politics from the Philadelphia Inquirer. Of course, I can see why the Inquirer did not want to get into all that when it had a nice bash-Republican article. That is why it is time to tell the people what the newspaper does not want you to know. I am afraid this is being repeated in many newspapers around the country.

Mr. Collender is a big-time Democrat. In fact, he contributed $1,000 to the Democratic National Committee just this past election cycle. Now, does this sound like a credible source on the merits of the Clinton plan?

But wait, there is more. Mr. Collender—this objective analyst, this credible source for the Philadelphia Inquirer—has worked for years on Capitol Hill for what can only be described as a liberal hall of fame of congressional Democrats: Tom Downey, FORTNEY STARK, and Elizabeth Holtzman.

Now that we know "the rest of the story," we can judge Mr. Collender's comments for what they are: Partisan cheerleading disguised as expert analysis.

Let us hope the news organizations that seem to rely on Mr. Collender for analysis—and that includes CNN, NPR, and network morning shows—finally figure out that they are not getting objective information. If they want to use Mr. Collender, they should put his name on the screen, with a big "D" in front of it. "D" is for Democrat.

Mr. President, I would also like to put in the RECORD at this point an analysis of the net impact of the Clinton plan as described by Eugene M. Freedman, chairman of Coopers & Lybrand. I have not checked whether Mr. Freedman made any political contribution, but if he did, we will take the article out. In the meantime, I will put it in the RECORD. It has a few little things about the Clinton plan that ought to be recognized.

I ask unanimous consent that the Blade article and the Freedman piece be printed in the RECORD.

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

[From the Toledo (OH) Blade, June 24, 1993]

RIEGLE CHARGES GOP LOOKING TO '96, HALTING TAX PACKAGE IN SENATE

(By Jack Torry)

WASHINGTON.—Sen. Don Riegle (D., Wash.) complained yesterday that the presidential ambitions of Minority Leader Bob Dole (R., Kan.) and other Republicans have made it impossible for the Senate to gain bipartisan approval for a package to reduce the nation's budget deficit.

Although Majority Leader George Mitchell (D., Me.) predicted that the Senate this week will approve a bill that reduces the deficit by $516 billion during the next five years, it will pass without the support of any of the Senate's 44 Republicans.

Mr. Dole and other Senate Republicans have charged that the bill relies far too heavily on tax increases and not enough on spending cuts. But Mr. Riegle told reporters from northwest Ohio and Michigan the Republicans were simply trying to gain an advantage for the 1994 off-year elections and the 1996 presidential campaign.

"I listened to Bob Dole today on television, and it was 100 per cent obstructionism," Mr. Riegle, who was joined in his office by Mr. Mitchell, said, "Now, I realize that he and a lot of other people are running for president in 1996 because they've all been up in New Hampshire."

Mr. Riegle said the battle for the 1996 GOP nomination is "playing back into the politics of what's is going on on the Senate floor today.

"I think that that's regrettable," he said. "This did not happen with Ronald Reagan or George Bush. They got a lot of cooperation from Democrats in the first year of their presidencies.

"I wish the Republicans were working with us right now. And frankly, if this presidential-nomination race for '96 were not fully under way right now, I think we'd be getting more cooperation."

Mr. Mitchell, who is pushing his members to support the tax increase just one year before 20 Senate Democrats face the voters, added, "Our Republican colleagues are very good at making speeches about the need for spending cuts but won't propose specific spending cuts."

Walt Riker, press secretary to Mr. Dole, said Mr. Riegle's charges show "how desperate the Democrats are who have to run in '94 to be seen with President Clinton in support of his punishing tax policy."

Mr. Riegle faces a difficult reelection struggle next year. Michigan Republicans have accused him of being too willing to support the package which includes $249 billion in tax increases in the next five years.

Although the bill would raise the top personal income tax rate from 21 per cent to 36 and the corporate income tax rate from 34 per cent to 35, it also includes a 4.3-cent-a-gallon increase in the gasoline and diesel fuel tax. The current gasoline tax is 14.1 cents a gallon.

Senate Democrats argue that 75 per cent of all new taxes would be shouldered by families with incomes above $100,000. But the middle-class taxpayers—whom President Clinton promised a tax cut in his 1992 campaign—would pay a large share of the gasoline tax. Republicans are anxious to hit Mr. Riegle and other Democrats with a barrage of critical advertisements.

"I expect to see that campaign ad," Mr. Mitchell said, pointing out that he faces reelection next year. "But . . . we are elected to do what's right for the country and, on occasion, that means taking action that can be used in campaign ads."

Mr. Riegle said the Senate version of the bill is much more fair to middle-class taxpayers than the bill approved last month by the House of Representatives.

The House measure included a broad-based energy tax that would have raised $72 billion over the next five years. The Senate Finance Committee, of which both Mr. Riegle and Mr. Mitchell are members, substitute the smaller gasoline and diesel tax for the energy tax.

Mr. Riegle said the House energy tax would have cost the average family of four in Michigan $400 a year. By comparison, he said, the gasoline tax in the Senate bill would cost the average Michigan family about $100 a year.

In addition, despite predictions this week by Budget Director Leon Panetta that a conference committee of the Senate and House would increase the Senate's gasoline tax, Mr. Riegle said, "I don't think, despite what Leon Panetta said yesterday, that we're going to go back to the [energy] tax.

Mr. Riegle said the bill would make "a substantial reduction in the deficit. And moreover, we're going to make more spending cuts. Mark that down—there will be more spending cuts than what's now in the package."

CAN THIS COUNTRY, OR ANY COUNTRY, REALLY TAX ITS WAY OUT OF A DEFICIT?

In recent weeks, we've observed the Administration's new tax package with considerable concern, if not outright alarm.

As people who provide tax advice to many global companies, as well as emerging and small businesses, we know to look beyond the short-term effects of tax legislation to the long-range implications.

And it is our belief that the long-range implications of these proposals will actually discourage the capital formation necessary for economic growth and the creation of jobs.

In the name of "tax fairness," the Administration wishes to raise individual tax rates in the upper bracket, potentially by 45 percent. And true, these days, those with higher incomes make an inviting political target.

But from our experience, we fear these proposals will have a chilling effect on our struggling economy. And send an ominous signal to American business.

Repeatedly, the President has declared his reliance on small businesses to create jobs and grow the economy. Yet, potentially, the proposals will hurt small business the most, as they create a tax disincentive to the entrepreneurs and others who risk their capital. And dollars that go into higher taxes can't be reinvested into businesses or create new jobs.

In effect, the legislation will kill the goose that the President himself is counting on to lay the golden eggs.

If the Administration truly wishes to reduce the deficit and grow the economy, it must pursue expenditure reductions and other, more meaningful tax legislation.

We in the United States must stimulate savings and investment. And provide real incentives for risk-taking. To that end, we recommend the White House and Congress work together toward the following:

Reduce federal expenditures. Or at least reduce the rate of growth. Without this, everything else is pointless.

Rather than tax income at such high rates as the Administration is proposing, explore new revenue sources, such as consumption or VT taxes, which would tap into more than $150 billion in taxes not paid by the "underground economy."

Remove discriminatory, anti-investment, and ultimately, anti-job tax rules that limit the deductions of economic losses and real investment expenses. Tax profits, yes. But encourage people to risk their capital by letting them deduct their economic investment losses against their earnings and business profits.

Provide tax relief on earnings from savings. This is our only real source of investment funds that doesn't rely on foreign capital. Yet the current proposal will act only to discourage domestic saving because of the excessive rates at which they will tax earnings.

We also believe it's unfair and very short sighted to put a surtax on capital gains, especially when the tax rules do not permit capital losses, such as from real estate or business ventures, to be deducted against earned incomes. It's a game where the government says "Heads, I win. Tails, you lose."

What we need now, and in any new tax recommendations, are rules that stimulate savings and investment, not penalize them.

Unusual as it may seem, we at Coopers & Lybrand are publicly asking the Administration to act on these suggestions. And we implore readers who agree with our views to contact members of Congress.

Because short-term disincentives for savings and investment will not reduce the deficit. Nor will they create jobs or get the economy back on track.

Long-term incentives will.

EUGENE M. FREEDMAN,
Chairman, Coopers & Lybrand.

Mr. DOLE. Finally, I want to say to my good friend from Michigan, Senator RIEGLE—I read this morning in the Toledo Blade, which is not in Michigan—where he indicates that we are obstructing this because of 1996 Presidential politics. I am flattered by his particular reference to me, that we are making this impossible because we are bogged down on this side because of 1996.

We are not bogged down because of 1996. We are bogged down because this thing is just killing us with taxes, taxes, taxes, taxes. There will not be any 1996 if this bill passes, probably. There may be a few politicians left, but there will not be any small business men and women left.

I know this is a tough sell in Michigan, Senator RIEGLE. But do not get up and question our motives or ascribe motives to any of us on this side of the aisle and say we are obstructing this, something that never happened in the Reagan-Bush years, because we know better. We read the RECORD. We have the votes.

I recall how this Senator voted in 1985 when we had a deficit reduction plan on the floor. We did not stand up and say this must be referenced to 1988 Presidential campaigns.

This is such a bad, bad package that my colleagues on the other side are looking for any little reason to divert attention. I do not think the American people are really interested in 1996. They are interested in killing this big, big, big tax bill that is $3.18 in taxes for every $1 in spending cuts. It is not a $500 billion package, it is $347 billion; and it is not going to get any bigger just because someone says it is bigger on radio, television, or in the newspapers.

To my friend from Michigan, a lot of us are going to go to Michigan next year to try to help elect Republicans in that State. We hope to see him there.

The PRESIDING OFFICER. The minority leader has 5 minutes left of his time.

Mr. DOLE. I will reserve that.

The PRESIDING OFFICER. Who now yields time? The Senator from Nebraska has 6 minutes remaining.

Mr. KERREY. Mr. President, my heart was fluttering, hoping the Republican leader was going to speak in favor of my amendment.

The distinguished Senator from Rhode Island will speak?

Mr. CHAFEE. Mr. President, what I would like to do is take 5 minutes off the bill, not particularly addressing this amendment, and I would ask unanimous consent—unless the Senator from Nebraska had something lined up that he wanted to say—I will take 5 minutes from the bill and ask unanimous consent to do that.

The PRESIDING OFFICER. Is there objection to allowing the Senator from Rhode Island to take 5 minutes off the bill to speak?

Mr. ROCKEFELLER. Reserving the right to object, but probably not planning to object, what would be the effect of that as to the 13 minutes which remains to the Senator on this side?

The PRESIDING OFFICER. The action on the underlying amendment would be suspended, pending this speech of the Senator from Rhode Island.

Mr. ROCKEFELLER. So there would be no effect?

The PRESIDING OFFICER. The Senator from Nebraska has 6 minutes left; the Senator from West Virginia has 13½ minutes.

The Senator from Rhode Island is recognized without objection for 5 minutes.

TRUE FOCUS OF THE DEBATE

Mr. CHAFEE. Mr. President, I think it is important the American public recognize the true focus on this debate, and I am talking about the overall bill, not addressing the amendment of the Senator from Nebraska. The true focus of this debate does not involve whether or not we want to reduce the deficit. Senators on both sides of the aisle have long recognized that we must take action now about this deficit if we want to give our children and our grandchildren any hope of having the same standard of living that we have enjoyed ourselves.

Where the difference of opinion occurs is how we go about reducing the deficit. Do we attempt to reduce the deficit by steeply increasing taxes as this particular bill does? Or do we rely upon deep cuts in spending? Or do we rely on a portion of both? It is my belief that the American public expected us to produce a bill that included a reasonable combination of both: additional revenues and less spending.

President Clinton campaigned very effectively last year on just such a platform. In the outline of his economic plan called A Vision for Change in America, he called for "a serious, fair, and balanced deficit reduction plan to stop the Government from draining the private investments that generate jobs and increase incomes."

That is what President Clinton—candidate Clinton said last fall. The American public expected him to put together just such a proposal. But the bill before us today bears no resemblance to the proposal outlined by candidate Bill Clinton. This bill will, indeed, reduce the deficit over what it otherwise would have been over the next 5 years, by $348 billion. More than 75 percent of the deficit reduction will come from new taxes and new user fees.

The proposal promises further deficit reduction by limiting discretionary spending in future years, but the enforcement mechanism to achieve this spending reduction from the appropriated accounts, the enforcement mechanism is, indeed, dubious.

The Republican alternative we voted on last night was far from perfect, in my judgment. It attempted to reduce significantly the deficit without so much as a dollar of new taxes, and I seriously question whether we can reduce the deficit substantially without any new revenue.

It is said we are in this predicament today: The President wants to reduce the deficit; the Democrats want to reduce the deficit; the Republicans want to reduce the deficit. With such unanimity, how could we possibly have failed to do the right thing?

It was apparent early on that the Democrats had made the decision to put this package together without any input from Republicans. The Finance Committee's portion of the bill was crafted solely by the 11 Democrats on the committee. The Republicans on the committee were completely shut out from the process.

I am a member of that committee. We are not invited to any of the sessions. We are just plain left out.

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

Mr. CHAFEE. Mr. President, I ask that I might have 5 more minutes off the bill.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. May I ask a question? If we take 5 minutes off the bill, is that equally counted against both sides against the bill as the time is reduced?

The PRESIDING OFFICER. The interpretation of the Parliamentarian, thus the Chair, is that it will be taken

from the proponents and opponents of the legislation.

Mr. PACKWOOD. I have no objection.

Mr. CHAFEE. May I proceed?

The PRESIDING OFFICER. Without objection, the Senator will proceed for 5 more minutes.

Mr. KERREY. Reserving the right to object, is the Senator saying he is going to speak in opposition to the underlying bill and time equally will be charged?

The PRESIDING OFFICER. Unless there is some objection, that will be the order.

Mr. PACKWOOD. Let me say in response, this is the way it is done: The time is taken equally off both sides. It would be the same as if somebody took 10 minutes over here by unanimous consent to speak against the Republican side of the bill; it would be taken off equally.

That is why I hesitated to see if there is any objection. In essence, that is what happens.

The PRESIDING OFFICER. There is a unanimous-consent request pending to allow the Senator from Rhode Island to proceed for 5 minutes. Is there objection?

Mr. FORD. Reserving the right to object, and I do not think I will, I say to the Senator from Oregon, he makes a good point. Up to now, I do not think that question has arisen.

I think we want to be fair to each side. If he is opposing this side, and we give that Senator time, it seems a little ironic that we would do that.

Mr. PACKWOOD. Historically, the reason we have done it is that both sides have gotten down to the end and wanted to have an equal amount of time. In the past, we got into a situation of one side or another not having the time.

For 5 minutes, I am not going to object to it.

Mr. FORD. My judgment is we would be losing 2½ minutes. We have 4½, 5 hours left. As you say, when we get down to the crunch, there will be enough time left, and we will be looking at amendments here for a while.

I say to my friend from Nebraska, if he want some time off the bill, we can also give him some time. So I think we will equalize it on that basis, I say to my friend from Oregon.

Mr. PACKWOOD. We are not actually taking any of his time off the amendment right now.

Mr. FORD. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island? Without objection, it is so ordered.

The Senator may proceed for 5 more minutes.

Mr. CHAFEE. Mr. President, I think it was wrong for the President of the United States and for the Senate Democratic leaders to assume Republicans would not be a constructive voice in this procedure. We have demonstrated time and time again our willingness to take tough votes in the name of deficit reduction.

Clearly, we differ on the approach taken on this package, but that should not have precluded us from being consulted as to how to make the package better. I yearn, Mr. President, for some middle ground. In fact, I had considered putting together a proposal which would have included real spending cuts, with enforcement mechanisms that would ensure that these cuts are achieved. And I would have included new revenues.

Unfortunately, I quickly came to the conclusion that, given the political realities that are existing now and how this debate has been shaped, this reasonable approach would have perhaps garnered 10 votes.

I am particularly concerned about the new taxes included in this bill. The top rate, as has been pointed out, for corporations goes from 34 to 35 percent, but it is the small businesses that are hit. The top income rate for these businesses is increased from 31 percent to as much as 44.5 percent. For my State, this means a very hefty tax increase for the majority of our employers.

According to the latest census of the 27,700 businesses in our State, more than 26,000 of those have fewer than 50 employees. These are truly small businesses, and they provide for 175,000 jobs for Rhode Islanders. It is this segment of the economy that has produced the few new jobs over the last few years created in our State.

Mr. President, these small businesses will not be able to generate new jobs if they are saddled with huge tax increases. Money that would otherwise be used to increase productivity, to increase our competitiveness, and to increase employment would go instead to the U.S. Treasury.

Yesterday, we heard a good deal about concerns for small business from Members on the other side. They went out of their way to support an amendment that would increase the so-called section 179 expensing allowances. I supported those proposals, but I do not think we ought to rationalize the validity of this entire package on the basis of a few dollops of tax goodies that are handed out in a last-ditch attempt to win a few votes. This bill started out bad for small business and it will end up bad for small business.

In conclusion, Mr. President, I hope that the President of the United States and the Democratic leadership over the next few days will see the wisdom in including Republicans in this effort to put together an effective deficit reduction package. Not only will that generate a better package than the one before us, but, Mr. President, it would bode well for the future.

We have some big issues coming up that are going to require cooperation. Whether you are talking the North American Free-Trade Agreement, or you are talking the health care reform, it is my belief that America will benefit if both sides can get together and we can have a bipartisan approach to these very difficult problems.

I want to thank the Chair, and I want to thank the Members on the other side for giving me this time.

The PRESIDING OFFICER. The Senator's time has expired. Who now yields time?

Mr. FORD. Mr. President, I ask unanimous consent to yield 5 minutes to the proponents of the amendment.

The PRESIDING OFFICER. The Senator from Kentucky is informed that the proponents of the amendment have 6 minutes.

Mr. FORD. I understand. That would then give them 11 minutes, and we just yielded 5 minutes. This equals the time off the bill on both sides.

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

The Senator from Nebraska will be given an additional 5 minutes.

Mr. KERREY, Mr. President, I thank my friend from Kentucky.

Let me try to make it clear to Members who have talked with me privately—and I talked with most of the Members, one on one, and I have communicated on the floor before—about what this proposal does. A lot of people will be afraid this is going to unnecessarily cut or restrict the growth of health care.

Mr. President, this proposal simply says to us, as Congress people, that we have to decide: Do we want to spend more or do we want to constrain the growth? We have to make a conscious, up-front, clear decision to the American people.

I review, again, this is the growth of all Federal health care spending that I have designated in this trust account, $318 billion this year. We spent $284 billion in the current fiscal year. Thus, for those who are concerned about how this is going to squeeze out other spending, it already is. We will have a $34 billion increase in Federal health care spending from our current fiscal year to next fiscal year.

The only reason it does not squeeze it even harder is we can deficit finance. If we were not allowed to deficit finance, we would be having to take that $34 billion, every single dollar, out of other programs. As it is, Mr. President, what it does is sort of gradually graze over and feed on other pastures. It happens every single year, and that number is going up extremely rapidly.

I am merely saying that we have to say to the citizens of this great country that with health care, we are going to pay the bills; that with health care—the most rapidly growing account in the Federal budget—we are going to pay the bills; that we are not

going to go to the bond market in New York City and sell $34 billion or $70 billion, or whatever it takes. This health care trust fund, over the entire 5-year course of this budget reconciliation, will, by CBO estimates, reduce the deficit an additional $180 billion.

Mr. President, the last year we will reduce it in a single year by $82 billion.

We can spend as much as we want on health care, Mr. President. This proposal does not say that we are constrained in some fashion. We can spend as much as we want to on health care.

However, if we decide we will respond and increase spending, then we have to raise the revenue for it. And unless we are prepared to raise the revenue, then we have to cut the spending on health care to bring this thing into balance.

I hear my good friend from West Virginia being concerned that this will slow down, perhaps, the reform of health care itself. Mr. President, upon this proposal one could do nothing and just allow whatever is happening in the private sector to happen; there is acceleration to do something about cost control already out in the market. Or we could build socialized medicine on this foundation; if it is the desire of the American people to own the means of production, to have the hospitals and the doctors work for the taxpaying citizens of this country. Or we could adopt a Heritage Foundation plan on top of this proposal.

We need not decide today which comprehensive health care reform model we are going to select. I am prepared to argue, regardless of what we do with health care reform, that we ought to have a pay-as-you-go system. It is appropriate to discuss it now because it will have a dramatic impact upon the deficit. It will ensure that those of us who voted for the 1990 budget deal, who are being asked to vote for this budget deal, can say with certainty at least we are not going to make the mistake we did in 1990. We will do something about the rapidly increasing costs of health care, which obliterated, along with an error made by Treasury, a great deal of the deficit reduction that we promised the American people as a consequence of tax increases and cuts we enacted that year.

Mr. President, I just say calmly that I think this is a responsible amendment. It will reduce the fiscal deficit of the United States of America. It will increase savings. It will increase the fund of capital that we need in order to generate additional output in this country. And, most importantly for me, Mr. President, it lays a foundation now so that we can, in fact, do health care in an honest fashion by presenting the American people a clear bill of what we are spending, by saying to the American people, let us decide which taxes we are going to use to pay for whatever we decide the Federal share will be, and by saying to the American people we are going to require that our health care spending be in balance with our revenue.

Mr. President, I yield the floor. If nobody wants to say anything else, I am prepared at some point rather quickly to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I do not know whether there are others who wish to speak. I do not wish to prolong this, and I suggest that we just have an up-or-down vote on the matter if that is all right with the Senator from Nebraska.

I would like to make a couple of closing comments unless there are others who would like to comment. If not, then let me just say again as I started off saying, I have a profound respect for the Senator from Nebraska. And I do not say that in the sense that we get teased about on the Senate floor for saying nice things to each other but we probably do not mean it. This is a Senator who, when he says good things about people, tends to mean it. And I sure do when I talk about the Senator from Nebraska.

But I have to say that this amendment has substantial danger built into it, and I want my colleagues, as they are considering how they are going to vote on this amendment, to understand that.

In a sense, what we are doing is locking in some kind of an automatic pilot, aggregating all of the entitlements together, making it much more clear, therefore, what they are, as on the Senator's chart. But that is nice. Once we know that, we then have to know what we are going to do with them. It would be my judgment, based upon two facts, that the result will be we will unknowingly but nevertheless savage Medicare and Medicaid, which this Senator has spent his last number of years under the previous administration trying to save as much as possible and has spent the last 3 weeks engaged with colleagues from my own side of the aisle trying to save as much as possible, also.

CBO makes the point that, in the absence of broader changes, any attempt to control public sector spending in an arbitrary way would have the effect of doing an awful lot of cost shifting, by which I mean that huge cuts would be made in Medicare and Medicaid and therefore taxes would be, in effect, levied on private payers, institutional payers who are not covered by Medicaid and Medicare as they receive their services from hospitals and doctors.

That is what is happening now. Because Medicare and Medicaid are very large, they do not reimburse at the cost of the service which is performed at the hospital or by the physician, so the cost is shifted to the private payer who is not on Medicare or Medicaid. This is, in effect, a real tax on people who do not know that they are being taxed.

Second, it seems to me that the reasons for the increase in Medicare and Medicaid are fairly well known. One is inflation, medical inflation, which is much, much greater than regular inflation. Second is the growth in the number of poor people. And third, the growth in the number of disabled individuals.

That is what has caused these programs to grow. People are getting older, more people on Medicaid, more people are poorer, more people are losing health insurance. In fact, 100,000 Americans lose their health insurance every month. These people, obviously, therefore, have to apply for other kinds of service, in particular Medicaid, in order to get benefits for themselves and for their families.

Mr. President, we cannot repeal inflation. I would like to do it, but we cannot do it. We cannot control the number of disabled or the number of poor arbitrarily in an amendment or all of a sudden. What we do need to do is in a systemic way look at the entire problem of health care and reform it, and in doing that take into account what the Senator from Nebraska is presenting to us.

I repeat, if you remove Medicare and Medicaid entitlements, all other entitlements of the Federal Government are increasing only at about 1 percent annually. But if you include Medicare and Medicaid, they are increasing much faster. As a result, the cuts that would come, the body politic's reaction to these Medicare and Medicaid numbers would be to slash them, to cut them, to savage them, with no consideration as to the effects.

I wish to control the increase in the cost of Medicare and Medicaid. The Senator from Nebraska knows I am genuine in my approach, and have been for a long time, to controlling health care costs. I am one who believes that 25 percent of everything we do in health care is either unnecessary and/or inappropriate, and I am one who believes we are going to spend about $1 trillion in health care. And if 20 to 25 percent of that is unnecessary and/or inappropriate, we are talking about $200 to $250 billion that we can squeeze out of the system.

But we cannot do it all at once. We cannot do it on automatic pilot. And we cannot do it by a formula which attaches itself to a single amendment. This is that single amendment. It is for that reason I fear it, and it is for that reason I respectfully oppose it.

Having said that, Mr. President, I yield back the remainder of my time.

Mr. KERREY. Mr. President, do I still have some time remaining?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. KERREY. I will just take a couple minutes to conclude and then I am prepared to vote.

Again, undoubtedly, I have great respect and admiration for the distinguished Senator from West Virginia, but I expect and look forward to that day when he and I, as allies, are arguing on the same side of health care reform on this floor, which I expect, as a result of President Clinton's leadership, will happen sooner rather than later.

I respectfully say that I have given a great deal of thought of this problem of automatic pilot and have crafted this amendment carefully so that it does not require us to be on automatic pilot.

This is not an automatic sequester. This is a permanent appropriation that puts us in the position where we have to make a decision. This amendment merely puts us in a status where we have to keep our accounts in balance. We can spend twice as much if we choose to, 50 percent more, or whatever.

As to the danger of the amendment, I say again with great respect to the distinguished Senator from West Virginia, that I am offering this amendment because of the danger that I feel if we do not do something in this budget reconciliation that gets health care costs under control.

Mr. President, I again call the attention of my colleagues, where the forecasts are right now with CBO numbers for health care spending over the course of this 5-year period. Remember, it was just 3 years ago, in 1990, that we passed a budget reconciliation package, a budget summit agreement that proposed to reduce the deficit $400 billion. And one of the biggest reasons that did not occur was health care spending was not under control, so it obliterated a large piece of potential savings.

We are going to spend over $300 billion in this next fiscal year. But in 1996, 3 years from the time this is all being debated, we are going to be close to $375 to $380 billion of annual spending.

My fear is that we will be back here 3 years from now explaining to the taxpayers, once again, why the $500 billion deficit reduction package did not produce $500 billion worth of deficit reduction. If I have to stand here 3 years from now and say it is because health care costs are out of control, I think the citizens will say, Senator, if you make a mistake once, I can understand it, but do it twice in a row, 3 years separating those decisions, Senator we do not understand how you can do it.

So, Mr. President, what I am trying to do in a responsible fashion is essentially take what I consider to be a tough vote. The Nunn-Domenici proposal on cap on entitlements I supported this year—I did not support it in the past because of my concern for cost-shifting—I have attempted to take that amendment and improve it so it does not produce the draconian cuts and the automatic pilot which could destroy Medicare and Medicaid as a consequence of fiscal action.

This will reduce the deficit for 5 years by $180 billion more than what we have right now; more than what is being proposed; so that not only can we say with certainty that health care costs are not going to be responsible for undoing again a budget proposal, a deficit reduction proposal, but we are going to be able to say with confidence that we will be able to go further than the current budget resolution.

Mr. President, I am prepared to yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

Mr. KERREY. 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 Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The result was announced—yeas 19, nays 79, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—19

Bingaman	Ford	Mitchell
Boren	Gregg	Nunn
Bumpers	Hollings	Reid
Daschle	Jeffords	Sasser
DeConcini	Kerrey	Simon
Dodd	Lieberman	
Exon	Mathews	

NAYS—79

Akaka	Cohen	Gramm
Baucus	Conrad	Grassley
Bennett	Coverdell	Harkin
Biden	Craig	Hatch
Bond	D'Amato	Hatfield
Boxer	Danforth	Heflin
Bradley	Dole	Helms
Breaux	Domenici	Hutchison
Brown	Dorgan	Inouye
Bryan	Durenberger	Johnston
Burns	Faircloth	Kassebaum
Byrd	Feingold	Kempthorne
Campbell	Feinstein	Kennedy
Chafee	Glenn	Kerry
Coats	Gorton	Kohl
Cochran	Graham	Lautenberg
Leahy	Murkowski	Shelby
Levin	Nickles	Simpson
Lott	Packwood	Smith
Lugar	Pell	Stevens
Mack	Pressler	Thurmond
McCain	Pryor	Wallop
McConnell	Riegle	Warner
Metzenbaum	Robb	Wellstone
Mikulski	Rockefeller	Wofford
Moseley-Braun	Roth	
Moynihan	Sarbanes	

NOT VOTING—2

Murray	Specter

So the amendment (No. 518) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is to be recognized.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thought we had worked out that Senator STEVENS could offer an acceptable amendment that would take 1 minute. If that is all right, could we do that now and then proceed to the Roth amendment?

Mr. SASSER. Of course. That has been discussed with us. We are pleased to accommodate the Senator.

AMENDMENT NO. 524

Mr. STEVENS. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, and Mr. INOUYE, proposes an amendment numbered 524.

Mr. STEVENS. Madam 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 138, immediately before line 1, insert the following new paragraph:

"(7) As part of any proceeding under this subsection the Commission (i) shall consider in such proceeding the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or, consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services.".

On page 138, line 1, strike "(7)" and insert in lieu thereof "(8)".

Mr. STEVENS. Madam President, I am joined by the Senator from Hawaii in presenting this amendment.

At the time the bill was in the Commerce Committee, I raised concerns about the regulatory parity provision in this bill.

I thank the Senator from Hawaii and his staff working with me and my staff to produce this amendment that is acceptable to both sides.

I am pleased to join my good friend Senator INOUYE, the chairman of the Communications Subcommittee, in offering this amendment to address concerns I raised during the Commerce Committee's consideration of the regulatory parity provision in this bill. I thank the Senator and his staff for working with me to produce an amendment that is acceptable to both sides.

The regulatory parity provision reported by the Commerce Committee could give existing providers of commercial mobile services a tremendous competitive advantage over new entrants seeking to provide competition in these services. This amendment directs the Federal Communications Commission to consider the ability of new entrants to compete in these services and to take appropriate action—either through appropriate modifications of the commercial mobile services regime or through other appropriate means available under the law—to provide a full opportunity for new entrants to compete in these services. In simpler terms, it directs the Commission to provide a level playing field for those seeking to provide commercial mobile services.

Again, I thank my colleague, Senator INOUYE, and urge the adoption of this amendment.

Mr. INOUYE. Madam President, I rise in support of the amendment by Senator STEVENS. The amendment builds upon the regulatory parity provision of the reconciliation measure reported by the Commerce Committee. At the committee markup, Senator STEVENS expressed concerns over the regulatory parity provisions and I agreed to try and work out a compromise provision. I am pleased that we have been able to work out a provision that addresses his concerns in a way that is fair to all the providers of commercial mobile services.

The FCC is about to issue licenses for personal communications services [PCS] in the next year. I believe that these new services should be regulated under the same framework as the cellular services. The regulatory parity provisions ensure that all mobile services carriers, including cellular and PCS, are treated as common carriers. I also believe that the primary authority for regulating mobile services carriers should rest with the FCC, not with the States. This amendment does not change the need to create a similar regulatory framework for all mobile services carriers.

At the same time, I agree with Senator STEVENS that the FCC should have the flexibility to tailor its regulations to ensure that new entrants have the opportunity to compete. Overly burdensome regulations may hinder the development of these new services. Senator STEVENS' amendment will clarify that the Federal Communications Commission [FCC] has the flexibility in implementing the regulatory parity provisions to amend, modify, or forbear from any regulation of new entrants in the mobile services marketplace, such as personal communications services. I believe that this provision is a workable compromise between the interests of the cellular industry and new entrants in the PCS market.

Finally, I would like to clarify what this amendment is not about. This provision is not intended to take any view concerning how much spectrum should be allocated to PCS, and it does not express a view about who should be eligible for PCS licenses. These are matters that are better left to the FCC to decide, and I believe that it is inappropriate for the Congress to express a view on these technical matters.

Once again, I appreciate the opportunity to work with my good friend Senator STEVENS. I am pleased that we have been able to work out this language and I urge my colleagues' support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 524) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is recognized.

AMENDMENT NO. 525

(Purpose: To limit the tax rate for certain small businesses, and for other purposes)

Mr. ROTH. Madam President, on behalf of myself, Mr. WALLOP, Mr. PRESSLER, Mr. SHELBY, Mr. D'AMATO, Mr. HATCH, Mr. MACK, Mr. BURNS, Mr. COATS, Mr. BENNETT, Mr. BOND, Mr. STEVENS, and Mr. MURKOWSKI, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. WALLOP, Mr. PRESSLER, Mr. SHELBY, Mr. D'AMATO, Mr. HATCH, Mr. MACK, Mr. BURNS, Mr. COATS, Mr. BENNETT, Mr. BOND, Mr. STEVENS, and Mr. MURKOWSKI, proposes an amendment numbered 525.

Mr. ROTH. Madam 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 486, between lines 3 and 4, insert the following new section:

SEC. 8203B. MAXIMUM SMALL BUSINESS TAX RATE.

(a) IN GENERAL.—Section 1 (relating to tax imposed), as amended by this subtitle, is amended by adding at the end the following new subsection:

"(j) MAXIMUM SMALL BUSINESS TAX RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (4), if a taxpayer has taxable small business income for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of taxable small business income, or

"(ii) the amount of taxable income taxed at a rate below 31 percent, plus

"(B) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) TAXABLE SMALL BUSINESS INCOME.—For purposes of this subsection, the term 'taxable small business income' means, with respect to any taxable year, the least of—

"(A) the taxable income of the taxpayer for such year attributable to the active conduct of any trade or business of an eligible small business in which the taxpayer materially participates (within the meaning of section 469(h) (other than paragraph (4))),

"(B) the net earnings from self-employment (within the meaning of section 1402(a), applied without dollar limitation) of the taxpayer for such year attributable to the active conduct of such trade or business, or

"(C) the taxpayer's share of additions for such taxable year to the qualified retained earnings account of such trade or business.

For purposes of determining net earnings from self-employment under subparagraph (B), an S corporation shall be treated as if it were a partnership.

"(3) QUALIFIED RETAINED EARNINGS ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified retained earnings account' means an account established by a trade or business—

"(i) which is designated as a qualified retained earnings account for purposes of this subsection,

"(ii) additions to which may only be made in cash,

"(iii) distributions from which may only consist of qualified distributions, and

"(iv) any earnings on which are not allocated to the account.

"(B) QUALIFIED DISTRIBUTIONS.—For purposes of subparagraph (A), distributions from a qualified retained earnings account shall be treated as qualified distributions if used—

"(i) to pay ordinary and necessary expenses paid or incurred in carrying on the trade or business of the eligible small business to which the account relates, and

"(ii) to pay the tax imposed under this subtitle on amounts in the account.

"(4) ADDITIONAL TAX ON NONQUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—If—

"(i) a distribution other than a qualified distribution is made from a qualified retained earnings account, and

"(ii) such distribution is made from additions to the account for a taxable year with respect to which paragraph (1) applied to the taxpayer by reason of such additions,

then the tax imposed by this section for the taxable year of the taxpayer with or within which the taxable year of the eligible small business in which the distribution was made ends shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF ADDITIONAL TAX.—The amount of tax determined under this subparagraph is an amount equal to the sum of—

"(i) the product of the taxpayer's pro rata share of the distribution described in subparagraph (A)(i) and the number of percentage points (and fractions thereof) by which

the highest rate of tax in effect under this section for the taxpayer's taxable year exceeds 31 percent, plus

"(ii) the product of—

"(I) the amount by which the taxpayer's pro rata share of such distribution, when added to the taxpayer's pro rata share of previous distributions from additions to the account for the same taxable year, exceeds $135,000, and

"(II) the rate of tax imposed by section 1401(b) for the taxpayer's taxable year.

"(C) ORDER OF DISTRIBUTIONS.—For purposes of this paragraph, distributions shall be treated as having been made from the qualified retained earnings account on a first-in, first-out basis.

"(D) TREATMENT OF HEALTH INSURANCE TAX.—For purposes of this title, the tax described in subparagraph (B)(ii) shall be treated as if it were a tax imposed by section 1401(b).

"(5) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible small business' means for any taxable year a sole proprietorship, partnership, or S corporation the average annual gross receipts of which do not exceed $10,000,000 for any 3-taxable-year period ending before or with the preceding taxable year.

"(B) APPLICABLE RULES.—

"(i) SOLE PROPRIETORSHIP.—In the case of a sole proprietorship, only receipts in connection with a trade or business shall be taken into account.

"(ii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of subparagraph (A).

"(iii) SPECIAL RULES.—The rules of subsections (c)(3) and (d)(8) of section 448 shall apply for purposes of subparagraph (A).

"(6) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any taxable year if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever applies) for the taxable year exceeds 31 percent.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations preventing the characterization of distributions for purposes of compensation or personal use as qualified distributions under paragraph (3)(B)(i)."

(b) CERTAIN TAXABLE SMALL BUSINESS INCOME NOT SUBJECT TO HI TAX.—Section 3121(a) (defining wages) is amended—

(i) by striking "or" at the end of paragraph (20),

(ii) by striking the period at the end of paragraph (21) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(22) any taxable small business income (as defined in section 1(j)), to the extent such income exceeds $135,000.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(d) EXTENSION OF CAPS.—

(1) FISCAL YEARS 1994 AND 1995.—The overall discretionary spending limits established in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 and 1995 as in effect on the date of enactment of this Act are reduced by—

(A) $4,452,000,000 in outlays for fiscal year 1994; and

(B) $5,233,000,000 in outlays for fiscal year 1995.

(2) FISCAL YEARS 1996, 1997, AND 1998.—

(A) IN GENERAL.—For fiscal years 1996, 1997, and 1998, there shall be caps on discretionary spending as provided in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 and 1995, subject to the provisions of subparagraphs (B) and (C).

(B) LEVEL OF LIMITS.—The discretionary limits on new budget authority and outlays for fiscal years 1996, 1997, and 1998 shall be—

(i) the levels assumed in H. Con. Res. 64, agreed to March 31, 1993, for such fiscal years, reduced by

(i)(I) $5,630,000,000, in outlays for fiscal year 1996;

(II) $6,031,000,000, in outlays for fiscal year 1997; and

(III) $6,352,000,000, in outlays for fiscal year 1998.

(C) EXTENSION OF LAW.—The provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 relating to the enforcement of the discretionary spending limit for fiscal years 1994 and 1995 are extended through fiscal year 1998 for the purpose of enforcing the limits set forth in this paragraph.

Mr. ROTH. Madam President, we all know the story about the goose that lays the golden egg. In the interest of time, I will spare you the details and take you right to the climax. The goose's owner, who now has become a greedy caretaker, kills the goose in an attempt to extract the eggs even before they are laid. And, in ironic consequence, he loses the very source of revenue he was seeking.

Today there are over 20 million small businesses in America. These valiant men and women were the exclusive source of all net new jobs from 1988 to 1990. In fact, they provide two of every three American workers with their first jobs and are expected to create 75 percent of the 43 million jobs needed over the next 25 years. Small business men and women represent over 99 percent of all employers and they employ over 65 percent of our Nation's private work force. Last year, alone, they created 40 percent of our Nation's new high-technology jobs. Not only is small business the primary source of American jobs, but as small businesses were putting people to work, big businesses, to become competitive in the global economy, were laying people off. Big business has laid off some 500,000 in the last few years alone.

Indeed, American small business is the goose that lays the golden egg. And now? Now President Clinton, with his tax increases, is trying to step in and kill the source of our Nation's good fortune. He is proposing to raise the top marginal tax rate for our small business men and women from 31 to 42.5 percent. This amounts to a 37-percent increase. And, in fact, for some, he wants to increase taxes to 45.9 percent. The simple truth is, small business cannot afford this kind of attack; the burden they are called on to bear is already onerous; this, for many, will prove fatal.

The facts are, Mr. President, that 80 percent of businesses in America are unincorporated; they pay taxes as individuals. President Clinton's proposal to increase taxes on these individuals will have a direct influence on their ability to hire and expand. Not only is he proposing to increase income tax rates from 31 to 36 percent for individuals earning over $115,000 and couples earning over $140,000, but he is eliminating the wage cap on the hospital insurance portion of FICA, which will also raise the tax rate of many self-employed business owners by another 2.9 percent.

But President Clinton does not stop here. Can you just see this poor goose laid out on the table? I sure can. On top of these tax increases, President Clinton is trying to place a 10-percent surtax on those who are most successful, usually those who are also employing the most people.

On top of all these increases, President Clinton and those supporting him in the Senate also want to hit small business men and women with a gas tax, increased paperwork and penalties. The President has now reneged on the promises he made during his campaign to help nourish and strengthen this precious source of revenue. As I have said, all told, the taxes President Clinton proposes will increase the top marginal rate for sole-proprietorships, S corporations and partnerships to 42.5 percent—and in some cases to 45.9 percent—rates much higher than that borne by our Nation's largest corporations.

Madam President, if you look at this table here, it shows that big business will pay a tax rate of 35 percent. That is an increase of 1 percent, from 34 to 35 percent. Mr. President, I ask unanimous consent that a copy of this table appear at this point in the RECORD.

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

TAX RATES ON RETAINED BUSINESS PROFITS

[In percent]

	Clinton tax rate	Roth-Wallop-Pressler tax rate
Family farm earning $150,000	38.9	31
Family run restaurant earning $250,000	42.5	31
Small manufacturer earning $300,000	42.5	31
Big corporations earning $250 million	35	35

Mr. ROTH. Look what is happening to small business. A small manufacturer earning $300,000 will pay a top rate of 42.5 percent—42.5 percent—compared with 35 percent, which is what would be paid by big business.

Is that fair? Is that equitable? Does that make good sense when one stops and thinks that it is small business that is the creator of jobs and growth?

This is not only true on the small manufacturer, it is true on the family-run restaurant. There again, they will pay 42.5 percent, top rate, and big business will only pay 35 percent. Where is the fairness in that, Madam President?

Look at the family farm. The family farm that earns $150,000 will pay a tax

rate of 38.9 percent. Its tax rates will go up from 31 to 38.9 percent, while big business—General Electric, IBM, and so forth—will only go from 34 to 35 percent.

Again, where is the fairness? Where is the equity?

Well, what President Clinton and his supporters in Congress are proposing is to make American small family businesses, farmers, restaurants, manufacturers, and others pay tax rates that are 21 percent more than the rates paid by our largest corporations, including foreign corporations.

This is a travesty, Madam President, one that we cannot allow to happen. The way to prosperity, the way to jobs, opportunity and growth, is by creating conditions in which American small business can thrive. And that is what we are proposing today with the Roth-Wallop-Pressler small business amendment. Rather than kill the goose, this amendment will allow it to go on producing; it will allow it to go on creating opportunities; it will allow for modernization, expansion, and jobs.

That is what we should be about here in the U.S. Senate. And let us begin with this amendment. The purpose of this amendment is to allow small business men and women to retain or reinvest their income in their businesses or family farms without subjecting that money to individual tax rate increases proposed by Clinton or to his unlimited Medicare hospital insurance wage tax.

In other words, this amendment exempts, from these higher rates, the active trade or business income that is retained or reinvested in the small business. And this amendment is completely paid for. It's paid for by reducing Federal spending by $27 billion. These cuts are enforced through caps on discretionary spending through 1998.

This amendment will cover businesses organized as sole proprietorships, family farms, subchapter S corporations or partnerships with $10 million or less in gross receipts. This amendment will limit growth in the public sector to create growth in the private sector.

The way this amendment works is straight forward, the profits that a small business man or woman chooses to leave in the business or farm will be taxed at the current rate of 31 percent rather than the higher rates that President Clinton's bill calls for. These reinvested profits will also be exempt from the 2.9-percent self-employment hospital insurance tax.

This amendment will not change the tax rates on wages or profits distributed for business owners or partners. It will, however, allow profits from these businesses to continue to be taxed at today's rates if they are properly retained or invested in the business.

Under this amendment, in order for a small business income to qualify for the reduced tax rate, the income must come from the active conduct of a trade or business in which the taxpayer is a material participant. This means that the taxpayer must actually work in that business.

There is no loophole here for investors, or those who do not spend a significant amount of time working in that business. This requirement means that the true entrepreneur will gain the benefit of this amendment, and not some taxpayer taking advantage of a loophole.

This amendment also requires that the lower rates only apply to active income. In other words, passive income or portfolio income will be taxed at the proposed higher rates, while profits that remain in the business will be subject to the current lower tax rates. Consequently, there is no way this amendment can be misconstrued as a tax break for the wealthy.

Let me give you an example of how it would work.

Let us assume a small manufacturer has $275,000 of taxable income. The $90,000 the businessowner takes out in wages will be taxed at the applicable tax rate, but the $150,000 that is spent on new machinery and the $35,000 that is kept in a retained account for future use and to pay tax liabilities will be taxed at the 31-percent rate.

This, Mr. President, is only fair. These industrious, risk-taking, men and women deserve not only our support, but our accolades. They are the men and women who are moving America forward. We have to listen to them. And here's what they're saying. From Michael Homlish in Dover, DE, I received this letter:

DEAR SENATOR ROTH: I realize that it is an overuse of the parental term, but I am willing to use it again, especially as a parent of a family where both my wife and I work, and as a business owner overburdened by taxes, forms, and time-draining regulations. I am sick and tired!

A.M. Matthews is a small business (under 100 employees) started in 1985. Government intervention into my endeavors takes me away from my primary goals, to make money, to expand, and to create jobs.

(Government intervention) deprives me of the time I would enjoy in contributing artistically and culturally to our society. You can understand the amount of time required to raise children, work full-time, plus, participate constructively in our community and still reserve three hours out of every twenty-four for sleep.

My wife works as a special education teacher for the State of Delaware. She graduated in 1976, and has worked as a teacher since her graduation. She devotes herself to improving the prospects of our children in the future. This is not a small endeavor. Her income enables us to do things we would not ordinarily be able to do. In our society, there is no easy way to exist without her income.* * *

How can more taxes be good for me. (Because of them) my work force has decreased in the past two years. The government is not doing anything to help make more capital available to me to increase my endeavors, expand my services, or lighten my tax liabilities.

The loss of jobs has affected my business, the economy has reduced my gross receipts, and the prospects of increased taxes, energy taxes, sin taxes, any kind of taxes is detrimental to my business. How am I to give raises with reduced incomes and increased expenditures?

One of the greatest joys I have experienced was the day I realized that my endeavor had created jobs, and the resultant contributions to my community. Honestly, though, after eight years, I am enjoying now more headaches than happiness!

Mr. President, I hope my colleagues were listening to this letter. This is what the people at home are saying; it is what they're writing. Their frustration is tangible, and rightly so. We need to get Government off the backs and out of the pockets of hardworking Americans. People are willing to pay their fair share. But when Government spending is out of control, when Congress cannot make the hard choices, and when the President and his followers know of nothing more—despite their promises—than to go back and ask for more, it is time for Americans to say, "enough!" And that is what we see happening from Anchorage, Alaska to Wilmington, Delaware.

Now let's get the message; let us pass this amendment—it is paid for by reducing the growth of government spending—and let us get the economy moving again. According to the National Federation of Independent Businesses, or NFIB, this amendment:

successfully addresses one of the most onerous effects of the higher rates—the fact that small business owners have to pay these high rates on money they have already reinvested back into their businesses. (This) amendment will allow business owners to pay lower taxes on business earnings that are plowed back in to the business. This will encourage business investment and will result in greater job growth. NFIB strongly supports (this) amendment. The vote on this amendment will be considered a Key Small Business Vote for the 103rd Congress.

Mr. President, let us pass this amendment. I have said it before, and I will conclude by saying it now: small business can survive without Government, but Government cannot survive without small business.

I ask unanimous consent a number of letters in support of my amendment be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESSES,
Washington, DC, June 24, 1993.

Hon. WILLIAM ROTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROTH: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I want to commend you for offering an amendment to limit the tax rate for certain small businesses.

As you know, the reconciliation bill currently being debated by the Senate will dramatically increase the top marginal tax rate on successful small business owners. The top

rate will jump from 31% to almost 45% for these businesses. Dramatically increasing the tax burden of our nation's employers will have an equally dramatic impact on their ability to employ.

Your amendment successfully addresses one of the most onerous effects of the higher rates—the fact that small business owners have to pay these high rates on money they have already reinvested back into their businesses. Your amendment will allow business owners to pay lower taxes on business earnings that are plowed back in to the business. This will encourage business investment and will result in greater job growth.

NFIB strongly supports your amendment and we will actively encourage your colleagues in the Senate to lend it their support. The vote on this amendment will be considered a Key Small Business Vote for the 103rd Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

AMERICAN FARM,
BUREAU FEDERATION,
Washington, DC, June 24, 1993.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: We have read, with interest, your description of the proposed amendment to the Senate Omnibus Budget Reconciliation Act sponsored by yourself, Senator Wallop and Senator Roth.

As we understand the amendment, it would allow profits from farm and ranches to be taxed as today's maximum rate of 31 percent if the profits were reinvested in the business. Since most of our farms are sole proprietorships, partnerships and subchapter S corporations, this would be much fairer than counting these reinvested profits as personal income.

The American Farm Bureau supports the adoption of this amendment and believes it would be an excellent incentive for reinvestment in American agriculture.

Sincerely,

RICHARD W. NEWPHER,
Executive Director, Washington Office.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, June 24, 1993.

Hon. WILLIAM ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: On behalf of the 8,000 small manufacturers who are members of the National Association of Manufacturers, I commend you on your efforts to amend the Senate tax bill currently under consideration to prevent the unfair and disproportionate tax burden to be levied on small business, including proprietorships, partnerships and S corporations. The National Association of Manufacturers strongly supports your investment incentive and job preservation amendment.

The amendment you will introduce with Senators Wallop and Pressler will prevent the taxation of earnings reinvested in the 21 million small businesses nationwide of which most, eight out of 10, will pay taxes as individuals rather than as corporations. As you know, the bill passed by the Senate Finance Committee will raise the current tax rate from 31 to 36 percent for most small businesses, while taxes for the largest businesses, those earning more than $10 million, would rise from 34 to 35 percent. This hardly seems like shared sacrifice for deficit reduction when the engine of job growth during the past decade has been small business, creating 11 million new jobs.

The NAM estimates that $45 billion of the $135 billion in total individual tax increases in the Senate Finance Committee-passed tax bill will be paid by small businesses. Thus, approximately a third of this tax increase will be borne by small business. Your amendment will help to rectify this unfair tax burden.

Sincerely,

JERRY J. JASINOWSKI.

STATEMENT OF JULIE LEIGH GACKENBACH, DIRECTOR, TAX POLICY, UNITED STATES CHAMBER OF COMMERCE

WASHINGTON, D.C., June 24, 1993.—The United States Chamber of Commerce on behalf of its 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 65 American Chambers of Commerce abroad congratulates Senators Roth, Wallop and Pressler for highlighting a critical problem facing small business in the budget reconciliation bill.

The Chamber is particularly pleased that Senators Roth, Wallop and Pressler have embraced an approach recommended by the Chamber early in the budget process. The Chamber, whose membership is over 95 percent small business, was the first to identify the anomaly of the effect of the higher individual rates on small businesses. Chamber representatives brought this issue to the attention of the White House and the Treasury Department shortly after the President's economic plan was presented in February. In March testimony before the Ways and Means Committee, the Chamber outlined the problem, and first proposed the idea of applying the current law rate of 31 percent to retained earnings of small businesses.

More than 21 million small businesses operate as Subchapter S corporations, partnerships or sole proprietorships and pay taxes as individuals rather than corporations. As such, the proposed increase in the top individual income tax rate to 36 percent and the 10 percent surtax will be particularly punitive to these businesses. In fact, these businesses will experience over a 27 percent increase in their maximum tax rate.

These small businesses are the engines of economic recovery. In ordinary times, small businesses account for one-half of all new job creation; in times of recovery, this number jumps to 75 percent. Increasing the tax on the retained earnings of these businesses leaves them with less capital to invest, grow and create new jobs. Providing an exemption from the proposed new individual income tax rates and the medicare self-employment tax would help ensure that these businesses have the capital needed for expansion.

As American businesses struggle to recovery from a recession and to meet the financial demands of new regulatory initiatives, imposing dramatic increases in their tax liability would penalize these companies at the very time when they can least afford the additional burden. As we said in our June 23rd letter, we urge the Senate to return the entire bill to committee to be redrafted to incorporate the small business relief suggested by Senators Roth, Wallop and Pressler, as well as other changes necessary to create a package which will improve the environment for small business and encourage long-term economic growth.

BUSINESS AND
INDUSTRIAL COUNCIL,
Washington, DC, June 24, 1993.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I write to endorse your Small Business Amendment to the tax bill, which you have offered with Senators Wallop and Pressler. The Roth-Pressler-Wallop amendment will exempt income reinvested or retained in a small business or family farm from tax rate increases proposed by the Clinton Administration and approved by the Senate Finance Committee.

Of course, we would prefer to see all these tax increases struck from the bill. But like you, we recognize the special importance of the sole proprietorships, partnerships, S corporations and other small businesses your amendment would protect. By some estimates, the Clinton/Finance Committee package would hike taxes for such taxpayers to 44.5%, a breathtakingly high level reminiscent of the "malaise days" of the late 1970s. It is truly astonishing how quickly Washington forgets the lessons of the recent past.

I would like to take this opportunity to reiterate our belief that any tax hike will only fuel deficit spending and hamper American competitiveness. I hope the Senate will support your amendment. If you have any questions or comments, please feel free to call our offices at (202) 662-8744.

Sincerely yours,

KEVIN L. KEARNS,
President.

I yield the floor.

Madam President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 14 minutes and 9 seconds remaining.

Mr. PRYOR. Madam President, it is my understanding the chairman of the Finance Committee, Senator MOYNIHAN, is going to manage our time. I do not see Senator MOYNIHAN at this time. I see the chairman of the Budget Committee, Senator SASSER, coming.

Mr. SASSER. Let me say to my friend from Arkansas, this falls within the Finance Committee's jurisdiction, as he knows. The distinguished chairman of the Finance Committee was here just a moment ago.

In his absence—here he is at the moment. I will turn this matter over to the distinguished chairman. I might say the distinguished Senator from Arkansas requested time to speak.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, may I inquire of my colleague, would the Senator from Arkansas wish to go first?

Mr. PRYOR. I will be glad to go first.

Mr. MOYNIHAN. I yield 5 minutes to the distinguished and able Senator from Arkansas, following which there will be 10 minutes to the Senator from New Jersey. The Senator from Louisiana will, I believe, wish to speak, and then so shall I.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I thank the distinguished chairman for yielding to me this 5 minutes. I will keep my remarks

within that 5-minute scope, I hope, Madam President.

Madam President, let us talk about what is going on here today and yesterday. This is something that is truly not a serious effort, nor do they expect a serious result, I think, from the other side of the aisle as to the approval of this particular amendment.

I would like, if I might, Madam President, to give a scorecard of what would have happened to the deficit, if in the last several days each amendment offered by the other side of the aisle been accepted and approved either by the Finance Committee or by the U.S. Senate.

First, last Friday morning, the Republicans on the Finance Committee, when they had their opportunity to do something serious about deficit reduction offered nine amendments in the committee. Had all of those nine amendments been accepted, the deficit would have increased by $46 billion.

Then we get to the floor when Senators DOLE and PACKWOOD and DOMENICI offered their particular substitute amendment—just yesterday, Madam President. Had that amendment been accepted, our deficit, relative to the Clinton plan, would have increased, not decreased, increased by $140 billion.

Madam President, on yesterday afternoon, Senator NICKLES, our good friend from Oklahoma, offered an amendment to totally strike the transportation fuel tax from this deficit reduction program; $25.3 billion would have been lost had the Nickles amendment been accepted—$25.3 billion added to the deficit.

And then our friend this morning, Senator LOTT, from Mississippi, comes and offers his amendment to strike the so-called Social Security tax on the very upper income of Social Security recipients. Had that amendment been agreed to, $26 billion would have been added to the deficit.

And now here we are in the final hours of this debate on the most massive deficit-reduction program proposal ever proposed to the U.S. Congress by any President of the United States. It is now before us about ready to be voted on. We see our friends from the other side of the aisle come forward with an amendment to strike all of the small business taxes, as they call it. What is the cost of this amendment, Madam President? Twenty-seven billion dollars in increases to the Federal deficit, with no specific spending offsets.

So the total, had we accepted, in the Finance Committee and on the floor, all of the amendments proposed by the other side of the aisle, had we accepted those amendments and this amendment offered at the present time, we would see our deficit not decrease, we would see our deficit increase by the grand total of $274 billion, relative to the Clinton plan.

So the question is, Is their proposal serious? Have any of their proposals been serious about deficit reduction? The answer is, of course, a resounding no.

The question is, are their proposals fair? Of course, Madam President, they are not fair to the hard-working middle class.

Mr. SASSER. Will the Senator from Arkansas yield for a question?

Mr. PRYOR. I will be glad to yield.

Mr. SASSER. I was just sitting here looking at that chart and was struck by it. In other words, that chart indicates that our Republican colleagues offered nine amendments in the Finance Committee that would have raised the deficit by $46 billion?

Mr. PRYOR. That is correct.

Mr. SASSER. This happened in the committee?

Mr. PRYOR. That was in the committee.

Mr. SASSER. Then when we came to the floor, the Dole-Packwood-Domenici Republican alternative had over $140 billion less deficit reduction than the Clinton plan.

Mr. PRYOR. The Senator is correct.

Mr. SASSER. Then that was followed by the Nickles amendment to strike the transportation tax that would have raised the deficit an additional $25 billion?

Mr. PRYOR. That is correct.

Mr. SASSER. Then the Lott amendment on Social Security would have raised the deficit an additional $26.3 billion if it had passed?

Mr. PRYOR. The Senator from Tennessee is absolutely correct.

Mr. SASSER. Now the Roth amendment would raise the deficit by another $27 billion, is that correct?

Mr. PRYOR. By $27 billion.

Mr. SASSER. So, if our Republican colleagues had been successful with all of these tax breaks, or tax writeoffs that they were offering, we would be $274 billion more in debt than we will be if they do not pass?

Mr. PRYOR. The Senator has accurately reflected this chart.

Mr. SASSER. I just must say to my friend from Arkansas, I had visions of 1981. This is exactly what happened in 1981: All of these great measures to reduce taxation but no spending cuts. I ask my friend from Arkansas, in these measures that they have offered that raise the deficit and cost revenue, do you know of a single specific spending cut that our Republican friends have offered?

Mr. PRYOR. I will respond to the Senator from Tennessee. I have been anxiously waiting not only in the committee but also on the floor, but I have seen no specific cuts.

Mr. SASSER. I must say to my friend, that is passing strange to me that a group that has been talking for days, weeks, months about not enough spending cuts, we have not been cutting spending enough, offered not one single specific spending cut, yet they want to raise the deficit by an additional $274 billion through deleting those revenues from the Treasury.

Mr. PRYOR. The Senator is absolutely correct.

Mr. SASSER. I will just conclude by saying this to my friend from Arkansas. This is exactly what got us in this soup in 1981, when they reduced revenues by 20 percent but there were no cuts to compensate.

Mr. PRYOR. Madam President, could I have 20 additional seconds from the chairman?

Mr. MOYNIHAN. Most assuredly.

Mr. PRYOR. Madam President, I will say, in conclusion, after watching this whole week develop and seeing what the President is proposing, seeing what the Republicans have offered, it just reminds me of the old belief that I have always had that Republicans, as good as they are, as friendly as they might be, really do not oppose taxes; they just oppose rich people paying taxes. And that is what this debate is about this afternoon. I thank the Chair.

Mr. ROTH. Will the distinguished Senator yield for a question?

Mr. PRYOR. On your time. I have no time left.

Mr. MOYNIHAN. My dear friend from Delaware wishes——

Mr. ROTH. I will wait until later.

The PRESIDING OFFICER. The Senator from New Jersey has the floor for 5 minutes.

Mr. BRADLEY. Madam President, I would like to take my time to ask the sponsor of the amendment a few questions. Will he be willing to answer a few questions about this amendment?

Mr. ROTH. On your time.

Mr. BRADLEY. Absolutely on my time.

Madam President, I find it sometimes interesting when proposals that come to the floor are described one way but the effect is quite a different way. I would like to just get a clearer idea of what the amendment is that the Senator is proposing.

Could you succinctly describe what the amendment does?

Mr. ROTH. What my amendment does, is to provide that profits that are retained in the business will be taxed at the current rate of 31 percent. Wages or profits that are distributed to the owner will pay taxes at the higher rate proposed by the administration.

Mr. BRADLEY. Do you think that this arrangement could be handled by any subchapter S corporation without the help of a tax accountant or a tax lawyer, or do you think they will need a tax lawyer and tax accountant?

Mr. ROTH. I find that there is very little you can do tax-wise today without a tax lawyer.

Mr. BRADLEY. Good. I think it is very important then that we make that clear. As I understand, you are

saying that if a business, a subchapter S corporation makes $500,000 but puts $100,000 into a retained account, that retained account will have a tax of only 31 percent and the rest will have a tax, the other $400,000, of 36 percent; is that correct?

Mr. ROTH. Basically, that is correct.

Mr. MOYNIHAN. I wonder if my friend from New Jersey will allow me to ask him a question on our time?

If you were a prospering law firm, which is typically an S corporation, would this not enable you to take what would otherwise be personal income taxed at 36 percent and put it into an account which earns interest on which you pay nothing?

Mr. BRADLEY. If a law firm is an S corporation.

Mr. MOYNIHAN. And many are.

Mr. BRADLEY. It would certainly, as I read it, allow that.

Mr. MOYNIHAN. Would you describe this as tax avoidance?

Mr. BRADLEY. I think it is clearly avoidance of a higher rate of tax and, therefore, tax avoidance; yes. I think it needs to be clear. The real question is, you make $500,000 and you decide to take $100,000 and put it in a retained account. How long can the money stay in the account before you have to buy something?

Mr. ROTH. There is no time limit placed on that.

Mr. BRADLEY. No time limit, so it can stay in there forever.

Mr. ROTH. But I point out to the distinguished Senator that any interest made on that would be taxed at the higher rate because the funds have to be used actively.

Mr. BRADLEY. How long must the money stay in the retained account in order to get the 31-percent rate?

Mr. ROTH. There is no specific time.

Mr. BRADLEY. How long must it stay in the account?

Mr. ROTH. Until the end of the year.

Mr. BRADLEY. So you can put it in on December 31 and take it out on January 1?

Mr. ROTH. If you do that, when you take it out, of course, you become liable for the higher tax rate. And we do provide for authority for the IRS to establish whatever regulations are necessary to ensure that the funds are used for the purpose intended.

Mr. BRADLEY. Can you take money out of a savings account and put it into a retained account?

Mr, ROTH. I am sorry, I did not hear you.

Mr. BRADLEY. Can you take money out of a savings account and put it into a retained account?

Mr. ROTH. No, that would not be correct because that would not be "profits" of the company.

Mr. BRADLEY. In this retained account, what kind of assets can you buy? You are paying 31 percent on this $100,000. What can you buy now with this money in your retained account?

Mr. ROTH. It would have to be business assets.

Mr. BRADLEY. Business assets.

Mr. ROTH. Relevant to the business.

Mr. BRADLEY. And that could be anything?

Mr. ROTH. It would have to be assets relevant to the business.

Mr. WALLOP. If the Senator will yield, I think the phrase in there is "active trade or business."

Mr. BRADLEY. So you can invest in Treasury bills?

Mr. WALLOP. Clearly not, Senator, and I think the Senator well knows that.

Mr. BRADLEY. I do not know; that is why I am trying to ask these questions.

Mr. ROTH. Whatever is spent has to be spent for ordinary and necessary expenses of the business.

Mr. BRADLEY. So you cannot spend the money on any kind of business trip or vacation?

Mr. ROTH. No; that is correct.

Mr. BRADLEY. You cannot. OK. How do you keep track of this money in the account? Do you have to keep track of it forever?

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

Mr. BRADLEY. Oh.

Mr. MOYNIHAN. You have 1 further minute.

Mr. BRADLEY. I have only one more question—I have a lot of questions but clearly there are aspects of this amendment that have not been thought out. There is a limit here. The company cannot earn more than $10 million and be eligible for this; is that right?

Mr. ROTH. That is correct—$10 million in gross receipts.

Mr. BRADLEY. So if they make 10 million and 1 dollars, they are automatically at the 36-percent rate. There is no kind of phaseout, right? You automatically get to the top?

Mr. ROTH. It is an average over 3 years, for the $10 million test.

Mr. BRADLEY. So you reach back? You have to average $10 million over 3 years?

Mr. ROTH. That is correct.

Mr. BRADLEY. The deductions you take against the total amount of your income—do you take it against the 31 percent or the 36 percent rate? You make $500,000, you put $100,000 into——

Mr. ROTH. Thirty-one percent.

Mr. BRADLEY. So you would have to set up two separate tables for deduction: One table against the 31 and one table against the 36?

Mr. ROTH. The income and expenses are both subject to the 31-percent rate.

Mr. BRADLEY. So you would only get a 31-percent deduction even if you are making $500,000, and you are paying a 39-percent rate on $400,000?

Mr. ROTH. As you understand, it has to be left in the business to be eligible for the 31 percent.

Mr. BRADLEY. So you are saying, therefore, it requires two sets of deduction tables: One against the 31 percent rate and one against the 36-percent rate, adding complexity to the whole system.

Mr. ROTH. If I might say so, the complexity comes about because of the proposal of the Clinton administration. I would be very, very happy to do away with all these higher rates which I think are creating the complexity that you are complaining about. So that all we are trying to do is take a complex situation and provide a means of enabling our small businesses to continue to grow, expand, and create jobs. The easiest way to do that would be to eliminate all of the increases in tax rates, and I would be happy to urge that, if the Senator would join me.

Mr. BRADLEY. I thank the Senator for attempting to clarify this. It still is not crystal clear in my own mind how this will work. I am sure if it becomes law, a lot of tax lawyers will tell us how it will work. I hope it does not become law.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. ROTH. Mr. President, I yield the Senator from South Dakota 3 minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, we have heard many arguments, but I think the basic summary of what is happening is that this bill should be called the Small Business Tax Act of 1993. The Federal tax rate is going to 42.5 percent for small businesses. With other taxes, most small businesses in this country will be in the 50 percent tax range.

Now, big business frequently likes Government. Big business enjoys regulation. It enjoys subsidies. Small business gets neither. Why have we not heard that this is the Small Business Tax Act of 1993? It is because the media and the Washington culture do not like the culture of small business, entrepreneurship, profit making, and job creation. These are the things that have built our country.

This bill will bring our small businesses into the 50 percent tax range. It is not a bill that taxes the rich. It taxes small business and nobody in the country knows about it or understands that. Let us remember that the President's budget reconciliation bill should really be called the Small Business Tax Act of 1993.

Mr. President, I have here statements from several organizations: The National Federation of Independent Business, the American Farm Bureau Federation, the National Association of Manufacturers, U.S. Chamber of Commerce, U.S. Business Industrial Council, Independent Insurance Agents of America, Associated Builders and Contractors, and others, all talking about the rate of taxation that is going to fall on small business.

This bill could also be entitled the "50 Percent Tax Rate for Small Business in the United States" bill. For the

first time in history, our small businesses will be paying taxes at a higher rate than our large corporations. For the first time, small businesses and family farms will be paying 50 percent income taxes when you add in the State, local and energy taxes on their profits.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from these various groups.

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

THE ISSUE IS JOBS—SUPPORT SMALL BUSINESS AMENDMENTS

DEAR SENATOR: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I urge you to support amendments that may be offered to help mitigate the impact of S. 1134, the Omnibus Budget Reconciliation Act of 1993, on small business owners.

This bill will have a serious and deleterious impact on our nation's small business community. The increase in taxes and the resulting economic downturn will slow what the President has referred to as "our nation's job generator." NFIB supports amendments that would—

(1) reduce the impact of the *personal rate increases* by increasing section 179 expensing, by allowing small business owners to use cash accounting, and/or by excluding them from the rate increase altogether;

(2) eliminate the provision of the bill that will create a *paperwork nightmare* for small business owners by requiring them to fill out form 1099 on corporations that provide them services; and

(3) permanently extend the *25% deduction for health insurance* for self-employed business owners.

NFIB encourages you to support these and any other amendments to help small business owners contend with the tax increases of S.1134. Votes on these amendments will be considered Key Small Business Votes for the 103rd Congress.

Sincerely

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

JUNE 23, 1993.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, June 24, 1993.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I want to commend you for offering an amendment to limit the tax rate for certain small businesses.

As you know, the reconciliation bill currently being debated by the Senate will dramatically increase the top marginal tax rate on successful small business owners. The top rate will jump from 31% to almost 45% for these businesses. Dramatically increasing the tax burden of our nation's employers will have an equally dramatic impact on their ability to employ.

Your amendment successfully addresses one of the most onerous effects of the higher rates—the fact that small business owners have to pay these high rates on money they have already reinvested back into their businesses. Your amendment will allow business owners to pay lower taxes on business earnings that are plowed back in to the business. This will encourage business investment and will result in greater job growth.

NFIB strongly supports your amendment and we will actively encourage your colleagues in the Senate to lend it their support. The vote on this amendment will be considered a Key Small Business Vote for the 103rd Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

AMERICAN FARM BUREAU FEDERATION,
June 24, 1993.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: We have read, with interest, your description of the proposed amendment to the Senate Omnibus Budget Reconciliation Act sponsored by yourself, Senator Wallop and Senator Roth.

As we understand the amendment, it would allow profits from farms and ranches to be taxed at a maximum rate of 31 percent if the profits were reinvested in the business. Since most of our farms are either sole proprietorships, partnerships or subchapter S corporations, this would be much fairer than counting these reinvested profits as personal income.

The American Farm Bureau Federation supports the adoption of this amendment and believes it would be an excellent incentive for reinvestment in American agriculture.

Sincerely,

RICHARD W. NEWPHER,
Executive Director, Washington Office.

STATEMENT OF JULIE LEIGH GACKENBACH, DIRECTOR, TAX POLICY, U.S. CHAMBER OF COMMERCE

WASHINGTON, DC, June 24, 1993.—The United States Chamber of Commerce on behalf of its 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 65 American Chambers of Commerce abroad congratulates Senators Roth, Wallop and Pressler for highlighting a critical problem facing small business in the budget reconciliation bill.

The Chamber is particularly pleased that Senators Roth, Wallop and Pressler have embraced an approach recommended by the Chamber early in the budget process. The Chamber, whose membership is over 95 percent small business, was the first to identify the anomaly of the effect of the higher individual rates on small businesses. Chamber representatives brought this issue to the attention of the White House and the Treasury Department shortly after the President's economic plan was presented in February. In March testimony before the Ways and Means Committee, the Chamber outlined the problem, and first proposed the idea of applying the current law rate of 31 percent to retained earnings of small businesses.

More than 21 million small businesses operate as Subchapter S corporations, partnerships or sole proprietorships and pay taxes as individuals rather than corporations. As such, the proposed increase in the top individual income tax rate to 36 percent and the 10 percent surtax will be particularly punitive to these businesses. In fact, these businesses will experience over a 27 percent increase in their maximum tax rate.

These small businesses are the engines of economic recovery. In ordinary times, small businesses account for one-half of all new job creation; in times of recovery, this number jumps to 75 percent. Increasing the tax on the retained earnings of these businesses leaves them with less capital to invest, grow and create new jobs. Providing an exemption from the proposed new individual income tax rates and the medicare self-employment tax would help ensure that these businesses have the capital needed for expansion.

As American businesses struggle to recover from a recession and to meet the financial demands of new regulatory initiatives, imposing dramatic increases in their tax liability would penalize these companies at the very time when they can least afford the additional burden. As we said in our June 23rd letter, we urge the Senate to return the entire bill to committee to be redrafted to incorporate the small business relief suggested by Senator Roth, Wallop and Pressler, as well as other changes necessary to create a package which will improve the environment for small business and encourage long-term economic growth.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, June 23, 1993.

DEAR SENATOR: There is no more important issue facing the U.S. Congress today than the creation of jobs for Americans. This is a stated goal of the Clinton Administration and a key objective of the 12,000 members of the National Association of Manufacturers.

The deficit reduction plan currently before the Senate contains a fundamental flaw in the way it treats the nation's small businesses, which, as you know, have been the principal engine of job growth in this country for well over a decade. Crazy as it sounds, under this budget plan small businesses will pay a higher effective tax rate than Fortune 500 companies.

The bill passed by the Senate Finance Committee will raise the current tax rate from 31 to 36 percent for Subchapter S corporations, while taxes for the largest businesses would rise from 34 to 35 percent. Subchapter S firms with taxable income over $250,000 will be hit with an additional 10 percent surtax, plus an increase in their Social Security tax, thereby hiking their effective tax rate to a whopping 42.5 percent. This increased tax burden even applies to income reinvested in the business! This is no way to create jobs or spur investment.

The NAM has calculated that, at a minimum, small businesses will pay $45 billion of the $135 billion in increased "individual" taxes that purportedly will be collected from "the rich." That's $45 billion that otherwise would be invested in new plants and equipment, R&D and, most importantly, new jobs. The disproportionate burden imposed on small businesses would stifle the very engine of our economic recovery at the time we most need it.

The NAM is making a broad appeal for a bipartisan fix to this anti-competitive and unfair tax increase. We need to distinguish between business and individual income earned by Subchapter S corporations, holding the taxation of reinvested income at the original 31 percent rate. This money is needed to grow businesses; to invest in new equipment, to hire additional workers, to provide profit-sharing and other benefits, to expand exports, and so forth.

It makes absolutely no sense that the increase in the tax bite for many small businesses could be up to 12 times higher than for larger corporations. We urge your support of provisions to eliminate the punitive

nature of the tax bill on our nation's chief job creators.

Sincerely,

JERRY J. JASINOWSKI.

U.S. BUSINESS AND INDUSTRIAL COUNCIL,
Washington, DC, June 24, 1993.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: I write to endorse your Small Business Amendment to the tax bill, which you have offered with Senators Roth and Wallop. The Roth-Pressler-Wallop amendment will exempt income reinvested or retained in a small business or family farm from tax rate increases proposed by the Clinton Administration and approved by the Senate Finance Committee.

Of course, we would prefer to see all these tax increases struck from the bill. But like you, we recognize the special importance of the sole proprietorships, partnerships, S corporations and other small businesses your amendment would protect. By some estimates, the Clinton/Finance Committee package would hike taxes for such taxpayers to 44.5%, a breathtakingly high level reminiscent of the "malaise days" of the late 1970s. It is truly astonishing how quickly Washington forgets the lessons of the recent past.

I would like to take this opportunity to reiterate our belief that any tax hike will only fuel deficit spending and hamper American competitiveness. I hope the Senate will support your amendment. If you have any questions or comments, please feel free to call our offices at (202) 662-8744.

Sincerely yours,

KEVIN L. KEARNS,
President.

INDEPENDENT INSURANCE AGENTS OF AMERICA, INC.,
Washington, DC, June 23, 1993.

Hon. LARRY PRESSLER,
Senate Hart Building,
Washington, DC.

DEAR SENATOR PRESSLER: The Independent Insurance Agents of America (IIAA), comprised of nearly 300,000 small business people, strongly supports the Roth-Wallop-Pressler small business amendment. We commend you and your colleagues for offering a proposal that will help small business expand, modernize and create jobs.

The Finance Committee proposal severely penalizes Subchapter S corporations, sole proprietorships and partnerships. Your proposal, which recognizes the role small business plays in the economy, maintains more equitable tax treatment for small entrepreneurs.

Sincerely,

ROBERT A. RUSBULDT,
Vice President,
Federal Government Affairs.

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
Rosslyn, VA, June 23, 1993.

DEAR SENATOR: Associated Builders and Contractors (ABC) opposes the Senate Finance Committee Budget Reconciliation bill. We believe the higher and new taxes will unfairly fall on small businesses, which make up a large part of the ABC membership. These rate increases and additional taxes will not help the economy or drive down the deficit, reduced spending will. We urge more spending cuts and point out that the cuts outlined for the "out-years" are vague and unspecified. President Clinton started out with a package he thought would contribute to the prosperity of small businesses and the growth of jobs. Instead, ABC suggests that the Senate version of this bill will result in job loss, extraordinary costs to small businesses and an economic downturn without measurable deficit reduction.

Our chief concerns with the Senate bill are as follows:

The addition of a 4.3 cents per gallon tax on all transportation fuels. ABC has always opposed the diversion of transportation taxes away from their dedicated purpose. ABC believes it is logical that those who benefit most from the use of transportation systems pay for the construction and upkeep of the infrastructure. Our position on this issue has been that if there has to be an energy tax to generate revenue, it should be one that is truly broad-based and applied evenly to all forms of energy. Simply put, higher gasoline prices and the continued diversion will have a direct bearing on the Highway Trust Fund. If a higher price at the pump yields less in gas tax receipts and no increase in the monies going to the Trust fund, full funding of ISTEA is then jeopardized, as are other planned surface transportation projects.

The new higher individual rates will affect S-corporations. Many of our smaller members or family-owned businesses select this tax status. ABC urges your support of the Roth-Wallop-Pressler amendment which exempts active trade or business income reinvested or retained in a small business from the increased individual tax rates and the unlimited Medicare hospital insurance wage tax. This amendment is directed at sole proprietorships, S corporations and partnerships with $10 million or less in gross receipts.

Not only will S-corporations get hit with a rate increase of 36 percent, they will also be affected by the 10 percent surtax on taxable incomes over $250,000 and capital gains. In addition, the increase in the individual alternative minimum tax (AMT) rate to 26 or 28 percent will also be levied on them.

We oppose the lower rate of $15,000 for direct expensing of equipment by small businesses. As you recall, the House version of this provision was well-received by the small business community as a substitute for the Administration's investment tax credits.

ABC opposes the elimination of the deduction for lobbying expenses. Should this proposal pass, it will do a disservice to millions of small businesses who depend on national, state or regional associations that represent them in their legislatures. This measure will effectively exclude many constituencies who may be large in number but limited in terms of resources such as time, knowledge and money.

Thank you for your consideration and the opportunity to express our views on these important tax issues facing small business.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President,
Government Affairs.

Mr. PRESSLER. Mr. President, I rise today, as an original sponsor of this amendment and the ranking member of the Small Business Committee, to urge adoption of this important measure. This amendment is absolutely critical to the success of small business and job creation in our country.

The reconciliation measure before the Senate strikes small businesses like a double-edged sword. It would require small businesses to pay higher taxes than America's largest corporations. In return, it gives them no significant reductions in Government spending.

After studying the President's tax bill and watching the actions of the House of Representatives, I had to ask myself, could there be a tax plan any worse for America's small businesses? I didn't think it was possible. I was wrong. The Senate Finance Committee has modified the President's plan to make it even worse for this Nation's No. 1 job creator—the small business sector.

The only good news for small business in the House-passed tax bill was the $25,000 expensing allowance designed to replace the President's promised investment tax credit. But, the Finance Committee took care of that and lowered the expensing allowance to $15,000—raising it on the Senate floor to $20,500. In addition, it imposed a surtax on capital gains for those who earn more than $250,000 per year—a direct assault on family-owned businesses and farms passed from one generation to the next. Mr. President, there is nothing left for small business in this bill.

Eighty percent of businesses in this country pay taxes as individuals, not corporations. They are sole proprietorships, subchapter S corporations, and partnerships. A great majority of the so-called wealthy who are targeted for increased taxes under the President's plan are small businesses.

The new top income tax rate for small businesses will increase from the current 31 percent of an effective rate of nearly 45 percent, after adding up the impact of the two new brackets, an unlimited Medicare tax and the phasing out of various deductions. All this comes, don't forget, before America's entrepreneurs are asked to pay the cost of mandated health care.

By increasing the top effective small business tax rate, the President's plan punishes the very people we are counting on to get our economy moving again. As a matter of fact, 52 percent of those making over $100,000 are small businesses—and 66 percent of those making over $200,000 are small businesses.

As a result of President Clinton's proposed tax increases and new Government mandates, small business optimism recently nosedived, pushed downward because of broad uncertainty among entrepreneurs and consumers. The result? Small business owners are afraid to hire new people. The temporary help industry in this country is booming. Businesses are afraid of higher taxes and all that comes with them—lower profits, increasing Government mandates, and an overpowering regulatory environment.

According to statistics from the Department of Labor, what businesses are now paying in overtime to current employees alone could provide over 1 million new jobs. Mr. President, Congress is doing nothing to inspire confidence

among America's small business women and men.

In addition, Mr. President, this tax plan is absolutely unfair. How much will corporations with taxable incomes of $250 million be taxed in the President's plan? The answer is 35 percent—up from 34 percent. At what rate will small businesses earning $250,000 be taxed in the President's plan? Almost 45 percent—up from 31 percent. Does this sound fair to you?

Our amendment will allow businesses to continue paying at the current tax rate of 31 percent for all active trade or business income retained or reinvested in the business or family farm. This amendment will help small businesses expand, modernize, and create jobs. I am proud to say this amendment encompasses many of the provisions of legislation I introduced last month—S. 947, the Small Business Tax Fairness Act of 1993. It has evolved from an amendment I offered to the original budget resolution on March 23 of this year.

Opponents of this amendment will tell you this amendment will be a tax break for the wealthy. This is one of the oldest and most overused arguments in the Senate—and it simply is not true.

Our amendment was carefully crafted. Profits that are reinvested or retained in the business or farm will continue to be taxed at the current 31 percent rate, rather than the proposed 36- or 39.6-percent rate. Those profits also would be exempt from the 2.9-percent self-employment hospital insurance tax.

This amendment would not change the tax rate on wages for business owners or partners, so no fat cat law firm partners or investment bankers would get a reduced rate on the income they take home. In addition, the 31-percent rate would apply only to active income.

The President and certain members of Congress do not seem to grasp the simple proposition that small businesses respond to incentives and disincentives. Additional taxes and more Government intervention represent serious disincentives. Our Tax Code should encourage small businesses to start up, expand, and create jobs. This bill does not.

On a related matter, I want to mention an amendment I plan to file shortly to eliminate new, onerous paperwork requirements being placed on small businesses by this bill.

Hidden deep within the tax bill is a provision that will come to be known as the section 89 of the 1993 reconciliation bill. It will require businesses to compute, complete, and send billions of pages of new information to the IRS. The IRS admits it won't be able to use this information for as long as 6 years. The New York Times has aptly described this initiative as a blizzard of paperwork. Forcing small business to comply with the bureaucracy and inefficiency of this new paperwork initiative put forth by our friends across the aisle will add yet another unnecessary burden on small business in America.

Small businesses and family farmers have made it very clear they want the Federal Government to stop reckless spending before asking for new taxes. Spending cuts are hard, but absolutely necessary. I am willing to work together in a bipartisan effort to get our deficit under control. However, I will fight to the end attempts to sacrifice small businesses, farms, and middle-class families to excessive new taxes before we have exhausted every possible means of cutting spending.

Mr. President, this amendment has nothing to do with tax breaks for the wealthy. It has everything to do with providing incentives for our small businesses to expand and create jobs. I urge all of my colleagues to look beyond the rhetoric to the facts. If they do, they quickly will understand the benefits of the approach taken by this amendment and support its passage.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I yield 5 minutes to the able and learned Senator from Montana.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana [Mr. BAUCUS] is recognized.

Mr. BAUCUS. Mr. President, a couple of points. No. 1, this is a deficit increase amendment. This cost $27 billion. There are ostensibly offsets in this amendment. The offsets are just a cap to discretionary spending. There is not a Senator who believes those offsets are valid. Therefore, this is a $27 billion deficit increase amendment.

That is very significant because small business depends mightily on low interest rates, low long-term rates, low short-term rates. If this amendment passes, it will increase the deficit by $27 billion, and this budget deficit reduction will begin to unravel. The financial markets in this country and in the world are going to believe this country cannot get its house in order, cannot get its financial house in order. We are going to see interest rates begin to go back up, devastating small business.

Point No. 2.

Mr. ROTH. Will the Senator yield?

Mr. BAUCUS. Not yet. I do not have time. I would like to.

Point No. 2. Although it is true unincorporated businessmen, partnerships, and subchapter S individuals would pay a higher rate, that is, about 40 percent, as opposed to the corporate rate in this bill of 35 percent, that is only a part of the story. That is not the whole story.

There is a very good reason, Mr. President, why these business people who, by the way, earn an average about $500,000 a year, do not convert to seed corporations. This is the standard garden variety corporations. That is the reason why they stay subchapter S and partnerships. The reasons are simple. Because even though they pay a slightly higher rate than corporations on their income, they pay only once. The 40 percent is once.

The corporation, on the other hand, has to pay the slightly lower rate but the individual, if he is to realize the income, must receive his income in dividends and he must pay a second time.

Take two companies. A subchapter S receives $100 in income, a corporation receives $100 in income. Forty percent to the subchapter S in tax. That means $60 is left over for the partner, for the individual; 35 percent rate to the regular corporation, $65 left to the regular corporation. If that is distributed, the shareholders must pay taxes on that. He gets $39.

So subchapter S partnership individuals in the end have much more income taxed at a much lower combined rate than corporate individuals.

So I say this, Mr. President. If we look at who really is affected by this, the fact is that nearly 7 million individual tax returns reflect business income in excess of wage income. And of that number only 4.2 percent would be subject to higher rates under this bill. I must say the average income of these individuals as represented by their tax returns is $560,000—the average return of businessmen whose business income is nonseed corporation but subchapter S and regular partnership income, the average income is $560,000.

So this amendment would be saying OK, if you are in that special category, you are very wealthy and you are not, and your income is not received from the corporation but in partnership form, you get a break.

What about other people who receive income in that amount or a lower amount, a higher amount? They do not get the same break. Why should this particular category receive such a break? And these are not your garden variety ma and pa hardware stores that we are led to believe. We are talking here essentially about bankers, investment bankers, doctors and lawyers and lobbyists, who incorporate not as regular corporations but as subchapter S corporations and receive their income in partnership form or other nonincorporated form.

So however you slice it, however you cut it, this is not a little guy, small business, hardware amendment at all. This is a big guy business amendment for he or she who is going to get more income, after-tax income than any other individual, whether you are even more wealthy or less wealthy and more after-tax income, receive your income as an executive from a corporation.

What gives? What is the point? It makes no sense, particularly when it is

an amendment which is not paid for. It will increase the budget deficit another $27 billion and start to push up interest rates, which is the bane of small business, of real small business let alone all business in America.

So I strongly urge all of us to think through this amendment, see it for what it really is and reject it.

I yield the remainder of my time to the Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized.

Mr. ROTH. Mr. President, I simply say that this amendment is paid for in full.

I yield 2 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I am appalled at what I am hearing on the floor today. I represent the frontier. Capital is formed in my State by retained earnings. For example, I know of one woman doctor, who has come to the Bethel area to practice medicine. She comes into Alaska with $100,000 in outstanding student loans, and she needs to set up a medical practice. How does she pay back her old and new loans? She pays it from after-tax dollars. Take the trucker who works along the pipeline. He pays for his trucks with after-tax dollars. Or the boat owner in Kodiak. I know one who has had to trade in his boat after 10 or 12 years in the industry. He now has a $2 million mortgage. How does he pay that? With after-tax dollars?

I just cannot understand the concept that is in this bill. Does the Senate not understand how those who do not have capital build capital? You build capital with after-tax dollars. You pay off the equity loans you have received.

The small logger has the same problem. I know one. He has a company that employs 15 people. The provisions in this bill, if not modified by this amendment, are going to take an additional $18,000 a year from his retained earnings. There is no way that American small business can live with the kind of concept in this bill unless we have a retained earning concept so that people who are working hard to build a future for themselves and their children and are providing employment for other people can retain those earnings.

I was told that the Small Business Administration estimates that 100 percent of the new jobs between 1988-90 were created by small business. This amendment is a pro small business amendment. It makes sense. The people who vote against this do not understand how we develop the capital base on the frontier or anywhere else in America.

I urge bipartisan support of this amendment.

Mr. ROTH. I yield 1 minute to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I thank the Senator for yielding.

Mr. President, I find it ironic that the Senator from New Jersey was just asking questions about the complexity of this particular provision. He was in the forefront in reforming our Tax Code, to simplify it by reducing rates in order to avoid the very kind of complexity he is now complaining about.

We are hearing a lot of time-worn rhetoric here today. The Democrats are saying we are out to protect the rich. The Republicans are saying we are killing the goose laying not the golden but at least the brass egg.

Let me remind you about what happened with the luxury tax legislation. The Democratic majority said let us soak the rich. They passed a tax on luxury items. They put blue-collar workers out of work. Now they are trying to repeal it because they have seen the damage done to the economy.

Forget the charts here. Forget the charts over there—all the charts—and just take a walk on the wild side. You will find vacant buildings, boarded up stores, unemployment lines, and bankruptcy filings, and you ask yourself, "Is the way to correct that situation to impose another $55 billion upon the people that we are asking to create the jobs?"

I submit to you I cannot support a policy which is tax you now and we will cut you later. That is the policy which is being offered by the majority.

I am one who is willing to increase taxes but not until we have a more serious deficit reduction that is promoted by the bill before the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield 5 minutes to my able colleague on the Finance Committee, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank my distinguished colleague very much for yielding.

I want to make a couple of points.

Number one, we are talking about small business as the backbone of this country in terms of creating jobs, and I certainly totally agree with that. Most of the jobs indeed are not created by the giants of international business, they are created by the small business, the mom-and-pop stores, the small shops, the small businesses located throughout America. But I want to say that you cannot isolate and pick one thing from any piece of legislation and say it is bad because of this.

I think what our colleagues on their side are doing is they are clearly picking. They are only picking the problems. They are only highlighting the bad things in a piece of legislation, which are the things that cause a little pain, and say the whole thing "ain't" worth a thing because of this one isolated incident.

You cannot do that and be fair. When you look at what we are trying to do for small business, I think you will see some positive features of this legislation which I think more than offset some of the negatives.

Number one, we are trying to have deficit reduction. There is not a small businessperson that has ever come to my office and said to me that the best thing you can do for us is to not reduce the deficit. No matter what you do, the best thing is to reduce the deficit. This legislation will reduce the Federal deficit by over $500 billion, meaning what most small businesses would like to see us do in this country.

And why? Because it is not a handout. It is the right thing to do because it is going to lower interest rates in this country. You have seen already some of the lowest rates we have ever seen in a long period of time because they think Congress, alas, is getting ready to do something about the problem. Lower interest rates means they are going to have more capital to borrow and to invest and to hire more employees. No one has said that we are removing the deductibility for employees. That is 100 percent deductible. They will have lower interest rates, more money to borrow, and, therefore, more ability to expand their businesses and to hire more employees.

Second, we have increased the expensing provisions for small businesses, all of them, not just the ones that are in a lower category or higher category. But we have increased expensing by more than doubling what is now currently available for the purchase of equipment to expand and to grow, to be able to be more productive, more competitive, and indeed to hire more people. It used to be $10,000. This legislation raises that to $20,500 in expensing for small business men and women to allow them to expand, to grow, and to hire more employees. That covers all small businesses, no matter what their income happens to be.

This provision we are talking about, according to the charts that we have, show that only 4.2 percent of the small businesses would be subject to it. But the advantages of lower interest, the advantages of more capital, the advantages of expensing more than being doubled in this bill applies to everybody.

The only thing we are saying in this bill is that 4.2 percent are those who are small businesses in this country that earn roughly over $180,000 a year adjusted gross income which would be subject to the increase.

When we write legislation, we cannot write it for individuals. We write legislation for this country. We write legislation for everybody in America. And

there are some times that some things will have an adverse impact in this area, and you have to look at the big picture. You cannot take one snapshot. You have to look at the whole movie to determine whether the product is good or whether the product is bad.

I would suggest in the committee's product what we do on expensing by more than doubling it, what we do by reducing the deficit are good things for small business. And we have tried to say that the majority, the bulk, almost 95 percent, in fact, 95 percent-plus of the small businesses would not be affected by this bad feature but would certainly get the benefit of the good bill.

Mr. MOYNIHAN. Mr. President, will the Senator yield? Did he say that only 5 percent of S corporations would be affected?

Mr. BREAUX. I respond to the chairman by saying that the individual rate increases will apply only to taxpayers with adjusted gross incomes of $180,000 for a joint return. Of that number, only 4.2 percent of the small businesses would be subject to the tax.

Mr. MOYNIHAN. 4.2 percent.

Mr. BREAUX. The other point is that means 95.8 percent will not be subject to the higher tax but will get all of the benefits of the lower interest rates, more capital being available, and all of them would get the benefit of the more than doubling of the expensing provision which most of the small businesses say if you can give me something to allow me to expand my business, that is it. And I am willing to accept the increase in the expensing and the lower interest rates and a lower deficit and in the interest of this country as well as in the interest of my business.

I yield the remainder of my time which is zero.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield a minute to the distinguished junior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank you, Mr. President.

Mr. President, small business is the backbone of our country. Eighty percent of the new jobs created in America will be created by small business. Small business has brought unique opportunities for women to be part of our economic systems and the prosperity of our country. In fact, Mr. President, I am proud to say that women-owned businesses last year hired more people than all the Fortune 500 companies in this country. I am very proud of that. I want to make sure that the women and the men who are the entrepreneurs that are making this country grow have the opportunity to make their business grow by allowing them to put money back into their small business. When small business people put money back into their business they buy new equipment, they create new marketing they create new jobs and their small business grows. That is what is going to get our economy going again; that is why I hope that all of our colleagues will support this very good amendment. This amendment will encourage our entrepreneurs to rebuild this country.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 1 minute to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I would like to follow up on a point which Senator COHEN made a few minutes ago and which Senator CHAFEE made earlier in the afternoon and state my general views with respect to the budget deficit.

It is my view and has always been my view that it is not possible to have an effective effort dealing with a budget deficit unless it is bipartisan. It is my position that a mix of spending cuts and tax increases is necessary for an effective program.

I do not share the view of some that it can be done only with spending cuts, although I think that this package is totally out of balance. It is my view that a necessary component of a significant deficit reduction program must be capping the growth of entitlements, and that is missing from this program.

For all those reasons, I associate myself with the views previously expressed by Senator COHEN and Senator CHAFEE.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield the remainder of our time to the distinguished Senator from North Dakota, the former tax commissioner of North Dakota, who is going to talk about a factual, real-life experience.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD], is recognized.

Mr. CONRAD. Mr. President, I thought it might add something to the debate to find out from the Treasury Department the actual effect on businesses of the item that is before us right now. I think this first chart demonstrates that most taxpayers with S corporation income will not pay the surtax. We have had a lot of talk about the surtax.

The fact is that only 16 percent of taxpayers with S corporation income make $200,000 or more; 18 percent do not. This chart shows what happens in terms of an effective tax rate—not the marginal tax rate, but the effective tax rate—for people with $500,000 of S corporation income a year. Under current law, they would have a tax rate, effective tax rate, of 27.2 percent. Under the Senate plan, they would have an effective tax rate—what they actually pay, not the marginal rate—of 32.7 percent.

For those taxpayers with $250,000 of S corporation income, Mr. President, they would go from, under current law, an effective rate of 26.6 percent to, under the Senate plan, a rate of 28.9 percent.

Mr. President, these are the facts, not the horror stories, not conjuring up the absolute worst-case scenario, talking about marginal rates. This is the effective tax rate people would pay with large amounts of S. corporation income. I think it is important for our colleagues to understand this before we take this vote.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. How much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes remaining. The Senator from New York has 20 seconds. The Senator from Delaware has 5 minutes and 20 seconds.

Mr. SASSER. The Senator from Delaware has 5 minutes 20 seconds. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 4 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I thank the Senator.

Mr. President, I find myself deeply offended by the remarks that I have heard on the floor this afternoon from the Senator from Tennessee and the Senator from Arkansas, who refuse at all to talk on the substance and instead prattle about Bill Clinton's politics of envy—the rich, the poor, the special interests. I only point out that in the bill that lies before us, there are more special interests dealt with by Bill Clinton and his friends than you could imagine, starting with movie stars, athletes, and people who do not have to pay the same high taxes that executives do.

The Senator from New Jersey said there are aspects of this amendment that have not been thought out. I ask any member of the Finance Committee to tell me there are not aspects of the bill before us that have not been thought out.

The Senator from Louisiana was talking about the expensing provision, and how valuable it was to small business. I say to my friends that expensing is not worth a tinker's dam to small business, unless you have income from which to expand the cost of capital. The whole point of this amendment is the need to protect capital.

The Senator from North Dakota talked about the subchapter S corporations. For heavens sake, there are other taxpayers besides subchapter S corporations affected in our small business amendment. Only about 10–12 percent of all small businesses are subchapter S corporations. Many of the rest are sole proprietorships and partnerships.

This package before us is the largest tax increase in American history. It is premised on the politics of envy, but it will not fall on the wealthy. It puts America, Mr. President—if you can believe this—at England's tax rate. Look at their economy today, and look at the economy that would be created by the Clinton-Mitchell tax plan before us.

I ask unanimous consent that an editorial from today's Washington Times be printed in the RECORD. He shows the 1990 budget agreement, with its increased taxes, failed to achieve its projected deficit reduction.

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

[From the Washington Times, June 24, 1993]

THE BUSH-CLINTON TAX PLAN

Remember President Clinton's State of the Union ad-lib about the reliability of the number crunchers at the Congressional Budget Office? He got a lot of laughs at Republican expense that night, but as the chart below indicates, Republicans are sort of having the last laugh—"sort of" because they were accomplices to the economic disaster known as the 1990 budget deal.

That was the year that the George Bushes, the George Mitchells, the Bob Doles and the CBOs all bought into the notion that government can tax the nation into prosperity. The biggest tax increase in the nation's history was supposed to reduce the deficit, which was supposed to reduce interest rates, which was supposed to, well, whatever.

In a December 1990 report following the budget deal, CBO enthusiastically projected a $200 billion deficit in 1990 that would rise to $262 billion in 1992 before dropping sharply to just $29 billion in 1995. As is clear from a somewhat less optimistic prediction from CBO in January of this year, higher taxes have instead led to even higher deficits, Mr. Clinton himself has acknowledged that higher deficits lie ahead (see accompanying chart).

In other words, based on the more recent projections, CBO was off by, oh, 879 percent in its estimate for 1995, assuming that the new projection is correct, of course. Now if you are CBO, you explain the budget deal's failure by saying, "Revenues are lower because real economic growth was less than anticipated." If you are The Washington Post, you (memorably) explain the failure of the 1990 budget deal by explaining that the economy had the "bad luck" to fall into recession after the deal was approved. Has anybody considered the possibility that higher taxes are bad luck for economic growth?

The current budget controversy serves as another reminder of the 1990 debacle. One of the disputes between the administration and Senate Republicans concerns some $44 billion in budget cuts approved in the 1990 deal but never implemented. Mr. Clinton says he is now working to achieve those cuts and ought to be able to claim them for his own. That's dubious enough. The real lesson here, however, is that in those deals promising so many spending cuts in exchange for so many tax increases, only the tax increases are assured. The cuts, usually in the "out" years of the deal, somehow never happen. When Congress gets more money, it spends more money. Delaware Sen. William Roth says that's why studies show that Congress increases spending by $1.58 for each new dollar in taxes.

If the cuts in programs don't happen, if the deficit doesn't decrease, how then can Mr. Clinton claim as another "spending cut" the $55 billion in savings from lower interest payments? Mr. Clinton claims that past Republican administrations counted interest savings as spending cuts, so why can't he? That's an odd question coming from a president who promised "change." But the more serious point is that the 1990 budget deal "grew" the deficit. So there was no interest savings and no "spending cut". How can the president claim that as a precedent for what he is doing now?

If Mr. Clinton had any mandate with 43 percent of the popular vote last November, it was this: Don't be George Bush. On the campaign trail he wasn't, but in office he has become George Bush and more, out-spending him, out-regulating him, out-taxing him. If and when his tax plan strangles the economy, he will pay the same political price as Mr. Bush. But it won't approach the price of lost jobs and lost wages that the American people will pay:

CBO DEFICIT PROJECTIONS

[In billions of dollars]

	1990	1991	1992	1993	1994	1995
1990 CBO deficit estimates	200	253	262	170	56	29
1993 CBO deficit estimates	.....	.....	.....	310	291	284

Mr. WALLOP. The Democratic Party is enamored with the seductive appeal of class envy and the need to go after the wealthy. The Democratic Party believes that revenues are raised by higher tax rates and not by growth rates.

This bill kills growth rates in the small business community, make no mistake about it. It will have the same effect as the luxury tax, where the majority leader of the Senate of the United States is coming in here begging us for relief from a program that he instituted.

Mr. President, we have already started to see the pandering to special constituencies in this bill and to the "friends of Bill." One need only look at the list of companies who signed on early to this tax package, and compare it to those who did not, to see who are the winners and losers.

NFIB and other small business groups spoke out against the plan early in the process, and now they alone face substantially higher marginal tax rates than some of America's largest corporations who, in the spirit of Faust, signed on to the President's plan.

Now corporations, in President Clinton's tax plan, pay less of a marginal tax increase than do America's productive people. Entertainers are going to be paying less than America's productive people. What is wrong with the people who create jobs in America, I ask my colleagues? What is wrong with them? Why should they be singled out as unfair players in America's economic picture?

In his book, "Putting People First," President Clinton said:

Small businesses create most of the new jobs in this country and they need to flourish if we are all to prosper. America cannot afford another four years without a strategy to make our economy grow again.

He was right then, even if he does not believe it now.

I ask unanimous consent that quotes from Senate Democrats about small business, transcribed from the floor debate on the reconciliation bill, be printed in the RECORD to show that they care, even if their vote may not show it.

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

QUOTES FROM SENATE DEMOCRATS ON SMALL BUSINESS

(Transcribed from floor debate on reconciliation bill June 23, 1993)

1. Sen. Dianne Feinstein (D–CA) "So, what we're doing here is trying to provide the incentive to aid start-up industries and also to help companies expand. I think it's an important part of the package, and I hope my colleagues on both sides of the aisle will help us fuel the California economy, the Connecticut economy and many others in this great nation."

2. Sen. Joseph Lieberman (D–CT) "At the same time we ought to give some incentives to business to invest and create jobs which bottom line our constituents most want us to do, and what the country most needs us to do."

"Every economist I talk to tells me, liberal, moderate or conservative, one of the weaknesses of our economy is a lack of investment, debt and equity. This is a way to say to people with money, give it to small businesses. People with an idea; people who want to get rich; people who want to create new jobs. Help them to do that and help our economy make up for some of those millions of jobs that we've lost over the last four or five years."

"This is a step toward job creation and I'm proud to support this amendment."

3. Sen. Harlan Mathews (D–TN) "I thoroughly and strongly believe that small business is the backbone of the economy of this country. That the jobs being produced today are being produced by small business. The compromise, or what I see happening today is that we're creating an atmosphere where small business can produce the jobs and stimulate the economy that we need to keep this engine running."

4. Sen. David Pryor (D–AR) "We know that small business is the engine of job growth and we also know that the individual who has basically shaped this issue of capital gains for small business has been the distinguished Chairman of the Small Business Committee of the Senate, my distinguished colleague and senior Senator, Senator Dale Bumpers."

"There's a little bit of pain in this legislation for all citizens of our country. What we're trying to do is alleviate some of the pain for small business that creates jobs throughout America."

5. Senator Barbara Boxer (D–CA) "I have to say from the standpoint of my home

state, that the best and most competitive in growth-oriented companies in California started with nothing more than some great ideas and a lot of hard work."

"In southern California, you'll find the world leaders in bio-tech and medical devices that advance our ability to diagnose and treat disease and up and down my state you'll find manufacture of the most sophisticated environmental technology that will clear our air and our rivers and our coast, and let me say that I think that this bill is not only aimed at helping small business, but is in fact aimed at helping our balance of trade."

"When you put people back to work, you will reduce the deficit. Every one percent of unemployment adds $30 billion to the deficit. So this is a job creator."

6. Sen. Herbert Kohl (D-WI) "Seems to me when we can offer capital gains opportunities where people who are willing to invest in small business and expensing advantages to people who are willing to invest to grow their small business and employ more people in our economy, grow our economy, this is an opportunity we have to take particularly when we are contemplating putting into place a bill which is a heavy bill, a bill which will impose some heavy taxes on small business, we need to indicate to them that we care about their future and the future of our country."

"I support it and I think it will be a good thing for small business for this government by way of providing a clear indication to small business that we are on their side."

7. Senator Dale Bumpers (D-AR) "The small business community is looking to Congress for help."

Mr. MOYNIHAN. Mr. President, do I have 20 seconds?

The PRESIDING OFFICER. Yes.

Mr. MOYNIHAN. Mr. President, may I offer a proposition which I believe most small business owners would agree with: You are never going to make money borrowing money to pay interest. That is what we have been doing for 12 years, and that is what we want to stop.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes off the bill.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, I want to congratulate the sponsors of this bill. I believe that this country is presently suffering some of its joblessness because of the anticipation of the taxes on small business that this amendment seeks to adjust. I would like to read parts of a letter I got last night faxed to me from a new constituent in New Mexico. The distinguished Senator from New York might be interested. This person lived all 72 years of his life in the State of New York, and he finally decided that he was going to leave there. Let me just read what he says.

My wife and I have recently relocated from the Big Apple where I lived for 72 years. However, the threat of the Clinton new confiscatory and discriminatory taxing policies when added to David Dinkins' already onerous burdens on small business finally caused us to decide to close down two businesses and move. The risk had become too great to want the continued risk of our already severely depleted capital base. One decision was to put 35 highly paid professionals out of work. Someone else can find work for them in New York. By forcing us out of business, the President has created a most negative impact on the very people he professes he is seeking to help.

Listen to this:

Our employee group included Asians, Haitians, Gays, Hispanics, Italian-Americans, Jamaicans, Lesbians, Greeks, Yugoslavs and African-Americans, as well as Caucasians of Western European ancestry. We always hired without regard to race, color, creed, age, national origin or sexual preference. Our staff ran the spectrum from an affirmative classmate of Anita Hill at Yale Law School to recent arrivals from Communist China, HIV positive young men, an accountant who did not fit in with anyone because he was small enough to be called a dwarf.

He goes on to say: "As you said on the floor of the Senate * * * 55 billion"—of this tax increase will come on the backs of people like him. They are going to be laid on the backs of those who create new jobs and they will stop performing.

He goes on to say that he predicts slow business growth and an exodus of more and more small business people if and when this bill passes.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware has 42 seconds remaining.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield myself 2 minutes off the bill.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I listened carefully to my friend from Wyoming, and, frankly, I am at a loss why he would take umbrage at the statements made by myself and my distinguished friend from Arkansas. What we have simply sought to point out here as simply as we could is that those who have been lamenting the fact and are trying to make the case really for days, weeks, months, hour after hour on this floor that we need more spending cuts if we are going to make any progress on this deficit, have not offered a single specific cut.

My friend from Arkansas, the very able Senator who serves on the Finance Committee, simply has been compiling a list of the costs of these various amendments offered by our friends from the other side. There were 46 billion dollars' worth of revenue losses on Republican amendments offered in the Finance Committee. Not a single specific cut was offered, to my knowledge.

The proposal offered by the distinguished minority leader, in conjunction with Senator DOMENICI and Senator PACKWOOD, had over $140 billion less definite reduction than that in the President's program. The Nickles amendment to strike the transportation tax—I would like to have voted with Senator NICKLES on that. I do not like transportation taxes. You know, I think we have to pay the bill in this country, I say to my friend from Wyoming. That costs us $25.3 billion. The Lott amendment on Social Security I give ground to no one in my defense and respect and affection and dedication to our senior citizens and the Social Security. But that amendment would have raised the deficit by $26.3 billion.

I would like to go down the line for so-called small business, but this amendment, the Roth amendment, would raise the deficit by an additional $27 billion. That is $274 billion that this deficit would be raised if we subscribe to what our friends from the other side of the aisle are offering. It is the same psychology that put this country almost in insolvency, and it is that nobody pays any taxes because we do not want to have the wealthiest among us bear their fair share so we just will not impose any taxes, and we will not impose any cuts on anyone because we do not want the political anger that might arouse, so we just put it on the cuff, we just borrow the money.

My friends, what we are saying to you today is the borrow-and-spend policies are over and this business of trying to deal with this deficit, as David Stockman said, is the business for grownups to handle. This is for grownups to handle. And those who cannot stomach it just ought to retire and let those who can stomach it just retire from the field here and let those stalwart individuals who are going to do their duty, let them do it. And we are going to do it, and we are going to bring this deficit down by $518 billion.

Mr. President, I see the distinguished Senator.

Mr. DORGAN. Is the Senator from Tennessee saying those who insist we are going to reduce the deficit are actually offering a proposal to radically increase the Federal deficit?

Mr. SASSER. No question about it. The scorecard the Senator from Arkansas produced demonstrates it very graphically. But, I say to my friend from North Dakota, not a single spending cut is in it. Now is that not one for the books?

Mr. President, how much time to I have remaining?

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

Mr. SASSER. I thank the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I understand I have 5 minutes leader time I might use.

The PRESIDING OFFICER. The leader is correct.

Mr. DOLE. Mr. President, I have been wondering about all these rich people. I

have been looking for them. I guess they have all been hanging out down at the White House. I picked this up in the Washington Post this morning. It is about all the dinners they are having every day for America's fat-cats. I did not write this headline, but it says "White House Hosts Flurry of Private Soirees"—I am not sure I pronounce that right; we do not use that word much in Russell, KS—"for the Elite." For the elite. All those rich people we have been hearing about are all down at the White House. No wonder Republicans cannot reach any of them. They are all down at the White House eating the free dinners and luncheons and all down there talking to President Clinton.

So I hear all these anguished cries. And the names are here in case you need them for your fundraisers. They are all right here. If we check the FEC reports, we will find a lot of those rich people on the other side at least must know. They make contributions.

So we get all these stories about the rich, but we do not have many of those people in my State. We do not have many in the Midwest. We have a lot of small business in my State. And there are a lot of small business men and women who are very concerned about what we are trying to do. I have got some information here about my State. Maybe it does not apply to North Dakota or South Dakota, or anywhere else, but it does apply to at least my State of Kansas.

There are about 1.5 million S corporations, and the other day in the Finance Committee the Treasury Department cited 50 S corporations that had gross receipts over $500 million. So they, in fact, wrote off all S corporations. That is about 0.003 percent that made over $500 million. What about the other 99 percent? What did they earn?

According to the Small Business Administration my home State of Kansas in 1989 had 65,692 business establishments; 94 percent were small businesses, and nationally almost 93 percent of all business establishments were owned by small business men and women.

We do not have much big business in our part of the country, and we are concerned about jobs. We are not concerned about how much taxes we are going to put on these people. We are not raising the deficit. We are cutting the tax loads on the business men and women all over America, and they are Democrats and Republicans and they are Independents, and they are not rich.

You do not see a single small business man or women on this list in the Washington Post down having lunch with President Clinton. They will probably have another group today. See tomorrow's list. It will be out tomorrow. You do not see any small business men and women here. Maybe they will be invited since we mentioned it, and I hope they are.

But I want to talk about a fellow out in Topeka, KS. His name is Les Brandt. He has been in the heating and air conditioning business for 20 years. He owns and operates an eight-man operation called Modern Air of Topeka. He wanted to expand his business and move to a different location, but he is not going to do it. Why? Because he worries about "decisions made in Washington" can take his whole business away. That is not my quote. That is Mr. Brandt's quote.

What did he have to say about this? What he is saying is they are not going to expand, create jobs and was not interested in talking about the possibility of loss of jobs. He had good things to say about President Clinton. I want to read it.

I said: "What would you tell the President if you had a chance?"

He said, and I agree with this: "I first would probably tell him I honestly believe he has the interest of all the people in the United States at heart, that I think his approach is not the right way to go. We need for private enterprise to create the jobs that he is talking about. We need not more Government, but less."

And, by the same token, we need not more taxes but less. This is true all over America.

You can go to another place in Massachusetts and talk to Ben Bailey, the cofounder of Computer Boards, Inc., in Mansfield, MA. He is so concerned over the tax increases, he ran an ad campaign in local newspapers against the President's tax proposal. They have managed to double in size every year since 1990, when they posted sales just under $1 million. Last year, they had revenues of $4.5 million.

This is a small company. They want to expand. They want to grow. They want to create more jobs. They are not going to do it. They are worried about cutting back 25 percent.

So we can stand here all day and point fingers about the rich people. We do not know where they are. They are out there somewhere.

Everybody is rich under President Clinton's plan. Everybody is rich in America. Everybody is going to pay more taxes.

This is not a $518 billion deficit reduction package. It is $347 billion, and $250 billion of that is taxes. Only $83 billion are spending cuts and only about 20 percent of those go into effect before 1996.

So I just suggest that I certainly strongly support the amendment of Senator ROTH.

Again I would mention, in case you missed it, "Clinton's Feeding Frenzy." It is all in the Washington Post today. Not a single small business man or woman there; not a subchapter S person.

These are all referred to by the Washington Post—and they should know—they use the word "elite," something not many of us use. But they use it in the Washington Post. And I guess some of the Post's owners were there. Mrs. Graham, I think, has an interest in the Post.

Mr. KENNEDY. Will the Senator yield?

Mr. DOLE. Would you like to have a copy?

Mr. KENNEDY. No.

Is Senator COHEN, a Republican from Maine, not on that list? Is Colin Powell on that list? Is David Gergen on that list?

Mr. DOLE. I do not think you are on the list.

Mr. KENNEDY. Read a little closer.

Mr. DOLE. I have not read the whole list. All I do is read the headlines.

But if you would like to go, Senator KENNEDY, I would be happy to try to get you an invitation. [Laughter.]

He is already on there?

Mr. FORD. Yes.

Mr. DOLE. Maybe he can get me an invitation.

We are going to go down there one of these days and see the President. And we wish him well.

So, in any event, if you want to help small business, you vote for this amendment.

Mr. MACK. I am pleased to join Senators ROTH, WALLOP, and PRESSLER in introducing this amendment to assist small businesses in their ability to grow and create new jobs.

Mr. President, let me read a quote to my colleagues:

> The small business community is the major generator of jobs in America, [and] has been for the last 12 years. Their job-generating capacity has slowed recently because it costs a lot of extra money to hire an employee and because of uncertainties in the economy.

I think the author of this quote is right on the money. First, it is an accurate statement that small business has been the engine of job growth over the past decade. Since 1980, 150 percent of the net new jobs have been created by small businesses. According to the Small Business Administration, small businesses created more than 4.1 million net new jobs between 1988 and 1990. By contrast, businesses employing more than 500 workers actually had a net loss of 500,000 jobs.

Second, I agree with the observation that the job-generating capacity of small businesses has slowed. Any small business owner will tell you that the costs of complying with Federal laws on workers are skyrocketing. Regulations, taxes, and heightened uncertainty about the economy make them very skittish about hiring workers.

So you might conclude that the author of this quote would prescribe a public policy toward small business that would lower taxes, reduce the regulatory burden, and foster a positive climate for business expansion.

Well, you would be wrong. These words were spoken last week by President Clinton.

This is the same President Clinton that has sent to Congress an economic package that is a disaster for small business. In the words of the National Federation of Independent Business, the President's package would have a—"devastating impact on small business owners"—by increasing the tax burden on them and impairing their ability to expand.

The President wants to saddle small businesses—primarily sole proprietorships, partnerships, and subchapter S corporations—with a supertax. He wants to add a new top marginal tax rate of 36 percent, up from the current rate of 31 percent.

Why are small businesses singled out?

Because small businesses pay taxes even on profits that are reinvested in the business. And if you raise taxes on those profits, you will grow fewer small businesses.

So the real question is this: In whose hands do you want the profits? Should it stay in the small business, which will expand and create new jobs? Or, should it go to the Federal Government to spend?

President Clinton, what is going on? How can your rhetoric be so at odds with your actions? Why do you advocate one thing, and then do precisely the opposite?

This supertax will mean a larger marginal tax rate for a family-owned retailer than large corporations such as General Motors and IBM. Where is the motivation to expand and thereby create new jobs? There is none.

But the supertax does not end at 36 percent. The President wants to add a 3.6-percent surtax on incomes of $250,000. This is not a tax on salary, but a tax on income for both the owner and the business.

He wants to eliminate the wage cap on the hospital insurance portion of FICA, which will effectively add an additional 2.9 percent of tax liability.

He wants to increase the alternative minimum tax and extend the limits on itemized deductions and personal exemptions, which adds another 2 percent.

Add it all up and it comes to a whopping tax rate of 44.5 percent marginal tax rate on small businesses within income of $275,000.

The amendment we offer today exempts active trade or business income which is either retained or reinvested in a small business or family farm from the increased individual tax rates and the wage tax proposed by the administration.

This amendment does not change the tax rate on the wages a small business or family farm owner pays himself or herself. It simply keeps in place the current tax rates for profits which are retained or reinvested in the business. This way, the owner has more working capital to invest in the business or family farm and thereby create new jobs.

There simply is no connection between what the President promises, and what he produces. He says he wants to help small businesses, but proposes the kind of policies that will destroy them.

The best policy he can make right now to help small businesses is to cut Government spending. This is what small businesses want; this is what American voters want. Forget the rest of your tax bill just like you have forgotten your Btu tax.

The shot in the arm the U.S. economy needs is a major cut in Government spending, not a gigantic boost in taxes.

I ask that an editorial from the Washington Times of June 24, 1993, be printed in the RECORD.

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

[From the Washington Times, June 24, 1993]

THE BUSH-CLINTON TAX PLAN

Remember President Clinton's State of the Union ad-lib about the reliability of the number crunchers at the Congressional Budget Office? He got a lot of laughs at Republican expense that night, but as the chart below indicates, Republicans are sort of having the last laugh—"sort of" because they were accomplices to the economic disaster known as the 1990 budget deal.

That was the year that the George Bushes, the George Mitchells, the Bob Doles and the CBOs all bought into the notion that government can tax the nation into prosperity. The biggest tax increase in the nation's history was supposed to reduce the deficit, which was supposed to reduce interest rates, which was supposed to, well, whatever.

In a December 1990 report following the budget deal, CBO enthusiastically projected a $200 billion deficit in 1990 that would rise to $262 billion in 1992 before dropping sharply to just $29 billion in 1995. As is clear from a somewhat less optimistic prediction from CBO in January of this year, higher taxes have instead led to even higher deficits. Mr. Clinton himself has acknowledged that higher deficits lie ahead (see accompanying chart).

In other words, based on the more recent projections, CBO was off by, oh, 879 percent in its estimate for 1995, assuming that the new projection is correct, of course. Now if you are CBO, you explain the budget deal's failure by saying, "Revenues are lower because real economic growth was less than anticipated." If you are The Washington Post, you (memorably) explain the failure of the 1990 budget deal by explaining that the economy had the "bad luck" to fall into recession after the deal was approved. Has anybody considered the possibility that high taxes are bad luck for economic growth?

The current budget controversy serves as another reminder of the 1990 debacle. One of the disputes between the administration and Senate Republicans concerns some $44 billion in budget cuts approved in the 1990 deal but never implemented. Mr. Clinton says he is now working to achieve those cuts and ought to be able to claim them for his own. That's dubious enough. The real lesson here, however, is that in those deals promising so many spending cuts in exchange for so many tax increases, only the tax increases are assured. The cuts, usually in the "out" years of the deal, somehow never happen. When Congress gets more money, it spends more money. Delaware Sen. William Roth says that's why studies show that Congress increases spending by $1.58 for each new dollar in taxes.

If the cuts in programs don't happen, if the deficit doesn't decrease, how then can Mr. Clinton claim as another "spending cut" the $55 billion in savings from lower interest payments? Mr. Clinton claims that past Republican administrations counted interest savings as spending cuts, so why can't he? That's an odd question coming from a president who promised "change." But the more serious point is that the 1990 budget deal "grew" the deficit. So there was no interest savings and no "spending cut." How can the president claim that as a precedent for what he is doing now?

If Mr. Clinton had any mandate with 43 percent of the popular vote last November, it was this: Don't be George Bush. On the campaign trail he wasn't, but in office he has become George Bush and more, out-spending him, out-regulating him, out-taxing him. If and when his tax plan strangles the economy, he will pay the same political price as Mr. Bush. But it won't approach the price of lost jobs and lost wages that the American people will pay.

CBO DEFICIT PROJECTIONS

[In billions of dollars]

	1990	1991	1992	1993	1994	1995
1990 CBO deficit estimates	200	253	262	170	56	29
1993 CBO deficit estimates	.....	.....	.....	310	291	284

Mr. BURNS. Mr. President, today, I rise to support the Roth-Wallop-Pressler amendment to the budget reconciliation bill.

This amendment is designed to hold the current tax rate on those small businesses that reinvest their profits in their business.

While this is a normal practice for small businessowners, to avoid borrowing capital unnecessarily and paying interest on that borrowed money, it is rarely a topic of conversation at the dinner table or on the floor of the U.S. Senate.

It is a little dull for table talk, but, it does keep jobs open, bills paid, and food on the table for the employee and the employer.

Now that is not what the current administration and my friends on the other side of the aisle say they want? Jobs. Income. Bills paid by families in this country.

Doesn't anyone get it? You have to leave the money in the cash cow. Otherwise she cannot produce the jobs that produce the income that pays the bills.

The budget bill before us would increase the current tax rate on those folks that run the businesses on main street, and the farms and ranches in this country. They pay the bills—they provide the resource that provides the jobs that many of us rely on to feed our families and ourselves.

Maybe the other little-known fact that we never discuss is that some, not all, of these rich people who own these businesses are running on such a thin profit margin that this increase in taxes will be the difference between whether or not they will decide to keep their doors open.

And if this does not ring a bell—let me spell it out for you. Whether the business employs 1 person or 499, those people will be out of a job. Period. Then we can prepare to hear that old familiar howl. Let us raise the taxes on the rich to make enough money to pay out more program money for those poor people that don't have a job.

Let us pump more money into this region, or that one, to help these poor people that have lost their jobs.

Well, this is not the first time we have heard this figure this week, but I am not afraid to be redundant, if that is what it takes to drive this point home.

The small businesses in the United States have created 4.1 million new jobs from 1988 to 1990. Corporations on the other hand laid off 500,000 workers.

Again, why are we killing the cash cow?

Why are we taking away the job supplier?

Businesses are not confident right now. They are reluctant to expand their job base during the current climate of Government policy changes. They are listening intently to determine how hard they are going to get hit with additional taxes.

This amendment will maintain a 31-percent tax rate if a business returns those profits to the business for reinvestment. This is in lieu of increasing their tax rate to 36 percent. These profits would also be exempt from the 2.9-percent self-employment health insurance tax.

This amendment will not change the tax rates on wages in this package for businessowners or partners. The income that is returned to the business is the only money that would be taxed at the 31-percent level.

In addition, the lower rates apply only to active income. Passive or portfolio income would be taxed at the proposed higher tax rates. This is not a tax break for the wealthy.

This will tax the money the businessowners want to take home and spend on their families, but not the money that they reinvest in their businesses that provide the jobs for employees.

Now, I dare say it is a little hard for me to say that I will be comfortable taking away any incentive that will keep a businessperson enthused about keeping the doors open. But it seems that we may have to start with the basics and build from there.

We have to learn from our history. The President's bill is a sure-fire prescription for economic stagnation. It will strangle the confidence of the small businessowner in this country to the point that it will discourage even the would be business developer. Then there goes the cash cow.

Mr. LUGAR. Mr. President, the President's economic plan is, to put it bluntly, a recipe for disaster. Grounded in an economic philosophy which holds that the Government is somehow more capable than private enterprise of creating meaningful and productive jobs, this plan threatens the very sector of the economy that has done the most in recent years to add jobs to our economy. I am speaking of the small businesses which from 1988 to 1990 created 4.1 million jobs.

The President does not explain his economic proposals in these terms, preferring instead to say that his tax increases are aimed only at the very wealthy and that his investments will benefit all Americans. What he fails to say, however, is that the very individuals he targets are the same individuals responsible for creating the 4.1 million jobs I mentioned earlier.

They are not, as the President would have us believe, greedy deep pockets stockpiling cash to squander on luxury items out of the reach of ordinary Americans. Indeed, they are ordinary Americans in every way; characterized by exceptional drive and fortitude which allow them to employ 53 percent of the work force while fighting against nearly insurmountable odds to turn innovation and hard work into more jobs.

There are 21 million small businesses in America today, and 80 percent of them file individual tax returns as a proprietorship, partnership, or subchapter S corporation. These small businesses constitute the majority of the wealthy who are targeted for tax increases under the President's plan. As a matter of fact, 52 percent of those making more than $100,000, and 66 percent of those making greater than $200,000 are small businesses. Thus, while not all of those who fit the President's definition of wealthy are small businesses, and all small businesses are certainly not wealthy, it is clear that raising individual tax rates to tax the rich will directly impact small business, and therefore multitudes of their employees.

If the President's plan is implemented, the base tax rate for these small businesses will rise from 31 to 36 percent—higher than the tax rate proposed for General Motors and IBM. This added tax burden will fall not only on the money that is taken from the business as income for the owner, but on the entirety of the business profits shown. Instead of plowing this money back into the business to buy a new machine, hire a new employee, or expand the businesses' marketing capability, small business owners will, under the Clinton plan, send the rewards of their labor straight to the Federal Government.

So despite the President's rhetoric championing investment in America, his tax policies will strike hardest at an important segment of the economy with a successful track record of creating jobs and growth—small business. It does not have to be this way. There is a credible alternative to the President's proposal.

The small business tax fairness amendment encourages small business managers to continue adding new employees to the payroll. The measure caps the tax rates for small businesses and family farms at current levels. The provision also guards against its use as a tax dodge for the wealthy; it states that taxable small business income must be "attributable to the active conduct of any trade or business in which the taxpayer materially participates."

Some have argued, under the rubric of putting an end to gridlock Government, that we should step back and let the President have free reign to implement his economic program in its entirety. In this way, so the argument goes, the American people will finally be able to see beyond the partisan blame game and will know, with some degree of certainty, which side is right about the proper economic course to follow.

Underlying this argument is the assumption that the Nation's economy is so vast and so complex that only through implementing a policy can we judge its merits. Even in the current debate, the cacophony of competing claims about the likely results of implementing the President's plans is enough to drown out most logical thought on the matter. Under the circumstances, it is perhaps inviting to let the President have his way—to stop the bickering—if for no other reason.

The gap between what has been promised and what has been delivered in the way of fiscal prudence is mirrored in the gap between what the Government spends each year and the revenue that it collects. Thus, we are confronted with a deficit of public trust in its institutions that rivals the budget deficit, and both are growing rapidly.

Some propose that those of us who oppose the President should let him press on and suffer the consequences. To do so, however, would be irresponsible. If the President, and those who share his penchant for high taxes and even higher spending, were the only ones who would suffer the consequences of this ill-conceived plan, then perhaps we could sit idly by and watch this plan fail to achieve its stated aims. But the truth of the matter is that the consequences of that failure extend far beyond the White House and Capitol Hill, out into the heartland of America where countless hardworking citizens will pay the price with higher taxes and declining living standards.

There is, however, a common sense projobs alternative, an alternative based on the realization that small business plays a vital role in job creation in our economy. That alternative is the Roth-Pressler amendment and I am pleased to have the opportunity to be an original cosponsor and to speak on behalf of small business job creation in America.

Mr. GRASSLEY. Mr. President, I submit two letters from a constituent as real-life evidence of how egregious the Democrat/Clinton tax package is on small business. The end result is an antijobs policy of this administration because it takes resources from the job creating machine of America—small business.

I ask that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ENGINEERED PRODUCTS CO.,
Waterloo, IA, May 26, 1993.

President CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: Over the last two years we have developed and tested a new adaptation of our air cleaner Filter Minder. The Fuel Filter Minder will significantly lengthen the life cycle of fuel filters on truck and tractor diesel engines (see the attached page). It will also reduce the amount of hazardous waste, dumped in overburdened land fills, from partially contaminated filters . . . save time and reduce costs for owners.

Several of the large fleet operators have told us that the Fuel Filter Minder is badly needed. It could double our business . . . and the jobs it would take to produce it.

Now I am faced with a dilemma. It has taken me 14 years of work, investment, and risk to develop my small business entrepreneurship, Sub S corporation to its present point where it puts me in your classification of the rich.

To put our new Fuel Filter Minder on the market will require me to risk several hundred thousand dollars additional investment in development, tooling, equipment, facilities, market development . . . payroll and jobs.

If I put this new product on the market, your proposed new "Invest and Contribute" plan will immediately take .466 cents tax out of every dollar of profit that it produces . . . .396 cents federal and .7 cents net Iowa tax. Then if I save or reinvest the remaining .534 cents instead of consuming it, the federal and state estate taxes will confiscate 55%, leaving only .254 cents for my heirs to invest to continue and grow the business . . . and to provide even more jobs.

At present we have 14 full time happy employees, who are paid above average wages and benefits, including pension, profit sharing, and . . . company paid hospitalization at over $1 an hour cost. If I add one more employee, it will trigger my business size to being subject to a steadily increasing number of costly government controls.

As you can see, the government is the major beneficiary of my entrepreneurship . . . my no risk partner. Please provide us with sufficient incentive for me to assume the risk in our new product and to invest and provide these new jobs. *Reduce* my tax and savings confiscation rate so that I can double our business and pay even more total tax.

In the meantime, I shall delay this new product until I see what action you take.

Very truly yours,

H.D. LEIGHTY,
Chairman of the Board.

ENGINEERED PRODUCTS CO.,
Waterloo, IA, May 26, 1993.

ROBERT J. LUDWICZAK,
c/o Senator CHARLES GRASSLEY,
Hart Senate Office Building
Washington, DC.

DEAR SENATOR GRASSLEY: If the government is going to depend on small business to jump start the economy by providing more jobs, it would seem to make more sense to increase incentives for those established, proven small businesses that are in a position to innovate and invest in new products and new jobs . . . to encourage small businesses to "invest and contribute", rather than decrease the incentive by increasing the rate of confiscation of any profits that might be made.

According to the Clinton Tax Plan, this is the way it works out for taxpaying, successful entrepreneurs that are considering risking investment in new products and jobs:

Profit	$1.00
Federal income tax	−.36
	.64
10 percent surtax	−.036
	.604
Iowa income tax	−.07
	.534
Federal estate tax @ 55 percent maximum	−.26
	.274
Iowa inheritance tax	−.02
Incentive left to risk, invest and grow the business	.254
the government takes	+.746
	1.00

As you can see, the government is the silent, risk-free partner—the chief beneficiary of established, successful and growing entrepreneurships—those that are in a position to risk the investment in new products—and provide more jobs without government subsidies.

Please help us to grow the economy instead of harvesting it. Increase our incentives to create more tax paying jobs and to pay more total tax.

Very truly yours,

H.D. LEIGHTY,
Chairman of the Board.

Mr. DASCHLE. Mr. President, the pending amendment advanced by Senators ROTH, WALLOP, and PRESSLER would provide a special small business/farmer exemption to the proposed increase in the top individual tax rate. It is a well-intended effort to help two groups that clearly deserve a hand.

Unfortunately, while this amendment is intended to provide a small business/farmer exemption, what it actually provides is an exemption for the very wealthy. It does not help ordinary farmers. It does not help typical South Dakota small businesses. It just helps the rich pay less taxes.

That, Mr. President, is not a claim. It is a fact. The devil here is in the details.

A look at the details of Roth-Wallop-Pressler amendment shows that its typical beneficiary is not a farmer at all. It is a Manhattan lawyer who has gross receipts of $9 million, pays himself a modest $500,000 salary on which he pays the proper individual tax rate, but then uses what is supposed to be a small business/farmer exemption to retain his remaining $8.5 million in income in a special small business account to be taxed at a lower rate than he deserves.

And it is not just lawyers who do this—it is doctors, bankers, and lobbyists, too.

I want everyone to understand exactly who it is we are protecting here if we pass this amendment, because the figures that are being tossed out by those who mistakenly feel this amendment actually helps average farmers and small business people are exceedingly misleading.

They say that 8 out of 10 small businesses pay taxes as individuals, rather than as corporations—some 21 million small businesses nationwide. But they fail to point out that only a tiny handful of these small businesses will be affected by the proposed increase in the individual tax rate, and many of them are small businesses in name only; rich lawyers who claim small business status to evade taxes.

Let us look at the facts. The individual rate increase will apply only to taxpayers with adjusted gross income—that is income after subtracting business expenses, capital losses, and contributions to individual retirement accounts and pension plans—of roughly $180,000 or more. This translates to 1.2 percent of all tax returns—1.2 percent. Of that 1.2 percent, a large number are not even small businesses.

Let's look at it another way. There are nearly 7 million tax returns filed each year that reflect business income in excess of wage income rough measure of who is a small businessperson. Of that number, only 4.2 percent—about 300,000 individual returns nationwide—would be subject to the higher tax rate contained in the underlying bill. Given that a significant number of these are investment bankers, doctors, lawyers, and lobbyists, I find it very hard to believe that many farmers, let alone corner grocery store or hardware store owners, will be subject to the new tax rate.

So, when you hear the other side say that 67 percent of the revenue paid by the top 2 percent of taxpayers is paid by businesses, it is obvious that we are talking about a whole lot of income concentrated among a small number of people.

Who is kidding whom? Let us not be misled by the sleight-of-hand statistics thrown out by the supporters of this amendment.

The fact of the matter is that this amendment, while aimed by well-intended Senators at a group of small business and farm families that deserve help, misses the mark. It actually benefits only a handful of wealthy individuals who do not need help.

This is not an amendment to help farmers and small businesses, it is an amendment to let rich lawyers call themselves farmers and thus get out of paying what everybody else must pay. And that, I submit, is not good policy.

Mr. ROTH. Mr. President, in the time that I have remaining, I just want to emphasize one point, and that is the fact that this proposal is fully paid for.

Time and again, those speaking in opposition to this amendment have claimed that we have not paid for it. I would advise them to turn to page 8, where we spell out the extension of caps that would fully pay for the $27.7 billion that my amendment would cost.

Mr. SASSER. Will the Senator yield for a question?

Mr. ROTH. I have no time remaining at this time.

I would say that those figures are wrong that are cited over there because the Roth amendment is paid for.

The PRESIDING OFFICER. All time has expired.

Mr. SASSER. Mr. President, at this juncture, I wish to yield 5 minutes off the bill to the distinguished Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Senator.

Mr. President, earlier today, my good friend the minority leader made a reference to comments that I made yesterday, which were published today in the Toledo Blade.

I ask unanimous consent that the text of that article that he made reference to be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. RIEGLE. It makes reference to the fact that the 1996 Republican Presidential nomination, in my judgment, has inserted itself into this debate and it is causing the obstructionism that we are seeing on this package.

It is very different from what we say back in 1981, the first year of the Reagan Presidency, very different from what we saw in 1989, the first year of the Bush Presidency, when we had our differences across party lines. We fought those out but, in the end, there was a willingness to give the new Presidents, President Reagan and President Bush, the opportunity to try to put into effect the basic thrust of the program that they had run on in their Presidential elections where they had been successful and to give them a chance to try to carry out their pledges to the voters of this country.

Now I think it is fair to say, too, further on down the line, at the end of those administrations, when they had had their chance to go ahead and try their programs and their programs had failed and had damaged the country—particularly so in the case of President Bush, the last year of the Bush administration—there was pretty heavy shelling in here, as we went over those issues, as properly we should have. And I fully expect that assessment at the end of Bill Clinton's term.

But it is a lot different when the heavy shelling goes on in the fourth year of the term or the third year of the term rather than in the first 6 months or the beginning of the term when the new President is trying to get started.

I am very much of the view that the Presidential sweepstakes on that side of the aisle for 1996 are very much involved in this. I will tell you why I think that.

There is a little newspaper that comes out each day around here called the Hotline. It keeps track of what is going on all around the country. They keep track of who all is going up to New Hampshire now in 1993, in the spring of this year. New Hampshire is an interesting State. It is no garden spot in the spring of any year. And we particularly see so many of our Republican friends, some in the Senate, some outside, all migrating up to New Hampshire.

In fact, so many have been up there, it is hard to get a motel room in New Hampshire these days because so many people who want to run for the Republican nomination in 1996 are up there.

Unfortunately that vacuum in their party, based on the scale of the loss of Bush and Quayle last year and this wide open early start for the Presidential nomination in 1996, is playing itself back into the deliberations here on this budget package. I think it is just plain for everybody to see and I think it is regrettable.

Let me give you what I base that on. Here is a map of the United States. But if you look on here, here is the District of Columbia down here.

Now, the Senator from Kansas has raised this issue. The Senator from Kansas, of course, has been up in New Hampshire.

He has not been the only one up there. I will get to the list in a minute.

But here is the District of Columbia and here is Kansas. So if you are flying from the District of Columbia to Kansas—which is out here—you do not have to go up here to New Hampshire to get to Kansas.

The same thing is true if you represent the State of Texas. Here is the District of Columbia. If you are going to Texas, this is how you go. This is not a shortcut to go to New Hampshire in order to get to Texas.

Now let me tell you who has all been up in New Hampshire since the first of the year.

The Senator from Kansas raised the issue. Of course, he has been up there, as well he might be, because he has run for President before. And I do not say it disrespectfully that he may want to run again. I think, in effect, he is out there now, sort of rolling out his thoughts in that kind of setting; as are others in that regard.

But it is a little early. It is a little early. And it is unfortunate, I think, that that is playing itself back to this debate.

Let me tell you who has all been up there so far. We have had the Senator from Kansas. We have had the Senator from Texas [Mr. GRAMM]. Senator LUGAR apparently either has been there or about to go. Jack Kemp has been up there. Congressman BOB DORNAN has been up there. The former Defense Secretary, Dick Cheney, has been up there. Lamar Alexander has either been there or about to go, a former Governor of one of our States and former Cabinet officer. Bill Bennett, former Cabinet officer, has been up there and is about to go. Now Lynn Martin has just indicated that she thinks she will go up there, another former member of the Bush Cabinet. By rough count, that is nine. That is nine people that are up there, rolling out the early version of their 1996 campaigns. Every Republican whose name has been mentioned has been up there now except former Gov. Harold Stassen. And I fully expect one of these days we will read that he has been up there, too.

So that is what is going on. That is part of this problem here. The other part of it is the folks on that side of the aisle——

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

Mr. SASSER. I yield the Senator an additional 6 minutes.

Mr. RIEGLE. I thank the Senator.

They are in here to try to sell a continuation of 12 years of trickle-down economics, which was first labeled voodoo economics by George Bush. And they like it on that side of the aisle.

The American people see through it, and they voted it out last November. They want to get on a new economic track. They want to get these deficits down. They want more job growth and they want more fairness in the economic policies of this country. So the public last November said: No, we have enough voodoo economics, let us get rid of it.

The folks on that side of the aisle cannot give it up. They like that trickle-down economics. It is what they want to defend and argue for. Frankly, it is what they are up arguing for right now in New Hampshire and, I suspect, although I do not have the records right now in terms of Iowa, but I have the feeling they are out probably in the other States, the early primary States for 1996.

This issue is about whether we are going to change the economic direction

and get some fairness in the economic policies of this country and start investing in the American people again. George Bush had an economic program for every country in the world except this one. And the people said they were sick of that, they want a new economic plan. We are giving them one here: $500 billion worth of deficit reduction, a much fairer Tax Code, and an effort to help lift the job base of this country.

Is it perfect? No, it is not perfect. It is not perfect. There are things in it that I wish were different. I think that is true of every Member here on our side of the aisle. But if we are going to tackle this problem head on, we are going to have to do some difficult things. I wish there were easy answers, there are not any. But the fact of the matter is this plan moves this country in a better and fairer direction, and I say the President deserves credit for it and it is time the Republicans gave this new President——

Mr. WALLOP. Regular order.

Mr. RIEGLE. Might I have an additional minute?

Mr. SASSER. I yield 1 more minute.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. RIEGLE. I think it is time for those on the other side of the aisle to think in a more bipartisan way to help this President do a good job for this country in the early months of his Presidency.

This President deserves the same degree of cooperation that this Senate gave Ronald Reagan back in 1981, and gave George Bush in 1989. We had our debates and we had our differences. But we did not obstruct their programs, and we did not mount filibusters, and we did not divide solidly on party-line votes on those critical issues, and we should not now.

Let us put the 1996 Presidential race to the side. There will be plenty of time for that later. Let us do what is right for America today. Let us concentrate on strengthening this economy.

I thank the chairman for yielding the time.

EXHIBIT 1

[From the Toledo (OH) Blade, June 24, 1993]

RIEGLE CHARGES GOP LOOKING TO 1996, HALTING TAX PACKAGE IN SENATE

(By Jack Torry)

WASHINGTON.—Sen. Don Riegle (D., Mich.) complained yesterday that the presidential ambitions of Minority Leader Bob Dole (R., Kan.) and other Republicans have made it impossible for the Senate to gain bipartisan approval for a package to reduce the nation's budget deficit.

Although Majority Leader George Mitchell (D. Me.) predicted that the Senate this week will approve a bill that reduces the deficit by $516 billion during the next five years, it will pass without the support of any of the Senate's 44 Republicans.

Mr. Dole and other Senate Republicans have charged that the bill relies far too heavily on tax increases and not enough on spending cuts. But Mr. Riegle told reporters from northwest Ohio and Michigan the Republicans were simply trying to gain an advantage for the 1994 off-year elections and the 1996 presidential campaign.

"I listened to Bob Dole today on television, and it was 100 per cent obstructionism," Mr. Riegle, who was joined in his office by Mr. Mitchell, said. "Now, I realize that he and a lot of other people are running for president in 1996 because they've all been up in New Hampshire."

Mr. Riegle said the battle for the 1996 GOP nomination is "playing back into the politics of what's going on on the Senate floor today.

"I think that that's regrettable," he said. "This did not happen with Ronald Reagan or George Bush. They got a lot of cooperation from Democrats in the first year of their presidencies.

"I wish the Republicans were working with us right now. And frankly, if this presidential-nomination race for '96 were not fully under way right now, I think we'd be getting more cooperation."

Mr. Mitchell, who is pushing his members to support the tax increase just one year before 20 Senate Democrats face the voters, added, "Our Republican colleagues are very good at making speeches about the need for spending cuts but won't propose specific spending cuts."

Walt Riker, press secretary to Mr. Dole, said Mr. Riegle's charges show "how desperate the Democrats are who have to run in '94 to be seen with President Clinton in support of his punishing tax policy."

Mr. Riegle faces a difficult reelection struggle next year. Michigan Republicans have accused him of being too willing to support the package, which includes $249 billion in tax increases in the next five years.

Although the bill would raise the top personal income tax rate from 31 per cent to 36 and the corporate income tax rate from 34 per cent to 35, it also includes a 4.3-cent-a-gallon increase in the gasoline and diesel fuel tax. The current gasoline tax is 14.1 cents a gallon.

Senate Democrats argue that 75 per cent of all new taxes would be shouldered by families with incomes above $100,000. But the middle-class taxpayers—whom President Clinton promised a tax cut in his 1992 campaign—would pay a large share of the gasoline tax. Republicans are anxious to hit Mr. Riegle and other Democrats with a barrage of critical advertisements.

"I expect to see that campaign ad," Mr. Mitchell said, pointing out that he faces reelection next year. "But * * * we are elected to do what's right for the country and, on occasion, that means taking action that can be used in campaign ads."

Mr. Riegle said the Senate version of the bill is much more fair to middle-class taxpayers than the bill approved last month by the House of Representatives.

The House measure included a broad-based energy tax would have raised $72 billion over the next five years. The Senate Finance Committee, of which both Mr. Riegle and Mr. Mitchell are members, substituted the smaller gasoline and diesel tax for the energy tax.

Mr. Riegle said the house energy tax would have cost the average family of four in Michigan $400 a year. By comparison, he said, the gasoline tax in the Senate bill would cost the average Michigan family about $100 a year.

In addition, despite predictions this week by Budget Director Leon Panetta that a conference committee of the Senate and House would increase the Senate's gasoline tax, Mr. Riegle said, "I don't think, despite what Leon Panetta said yesterday, that we're going to go back to the [energy] tax."

Mr. Riegle said the bill would make "a substantial reduction in the deficit. And moreover, we're going to make more spending cuts. Mark that down—there will be more spending cuts than what's now in the package."

Mr. DOMENICI. Mr. President, I think we ought to have a lot of latitude to speak on the floor. I think we are trying very hard to give people an opportunity to get amendments and we have been working at that with limited time. I am not so sure that we are going to stick to speeches that have to do with this budget. But in light of Senator RIEGLE'S remarks, my friend from Oklahoma has asked that I yield him 3 minutes.

I really hope we would get onto the amendments as we had planned them heretofore. We have a series of them. Senators are waiting around to get them done. Senator INOUYE is ready, others are ready. But I yield 3 minutes to Senator NICKLES from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES] is yielded 3 minutes.

Mr. NICKLES. I thank my colleague from New Mexico.

If candidate Clinton or if President Clinton had run on this economic program, he would not be President Clinton. I do think that politicians should be held accountable. When Bill Clinton was a candidate he said—in New Hampshire I might mention, he said—"middle-class taxpayers will have a choice between a children's tax credit or a significant reduction in their income tax rate." That is what he said as a candidate. That is what he said in his book. But that is not in the economic package.

Candidate Bill Clinton said he was opposed to a gasoline tax increase. This package has a gasoline tax increase.

I just make those points. I am not trying to be partisan, but I think my colleagues, when they start talking about New Hampshire, I think we should just look back a year ago, some of the comments that were made in New Hampshire and other States.

I would like to discuss the amendment that is before us, because the bill that we have before us is an assault on small business. There are a lot of people who are self-employed who are sole proprietors, who are subchapter S's, that are going to see their rates go up from 31 to 36 or 42.5 percent. And if you talk about elimination of Pep and Pease, up to 44 percent. That is a 43-percent increase in their marginal rates.

My friend and colleague from North Dakota said marginal rates do not mean much. Let us talk about effective rates. I will tell my colleague as a business person you make your incremental decisions on marginal rates: Should

I have this plant expansion? What is the incremental effect on my income and on my employees?

If your marginal rate is at 42 or 44 percent, and that is before you pay your State income tax, you pay your State income tax you are over 50 percent, that has a very suffocating impact on your incremental decisions to expand, to build, to grow.

So I would just say I think there is something inherently wrong, to have small manufacturers or have a family run restaurant taxed at 10 or 11 percent more than the present rate, or to have the rates almost 10 percent more than the corporate rate.

I hope my colleagues will pass the Roth amendment. And I might add, too, the Roth amendment does have offsets. It does call for curtailing spending. It is paid for. It is responsible. It is reduction in taxes and in spending. And I believe it is a giant step in the right direction.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, is there time remaining on the other side?

The PRESIDING OFFICER. All time has expired.

Mr. SASSER. Then, Mr. President, I raise a point of order that the pending amendment violates section 310(D)(2) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order 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.

Mr. SASSER. Mr. President, is there time remaining on the motion?

The PRESIDING OFFICER. Yes.

Mr. SASSER. Mr. President, I yield back the time on our side.

Mr. DOMENICI. We yield our time.

The PRESIDING OFFICER. All time is yielded.

The question is on agreeing to the motion of the Senator from Delaware to waive section 310(D)(2) of the Congressional Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 56, nays 42, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—56

Bennett	Exon	Lugar
Biden	Faircloth	Mack
Bingaman	Gorton	Mathews
Bond	Gramm	McCain
Brown	Grassley	McConnell
Burns	Gregg	Murkowski
Chafee	Hatch	Nickles
Coats	Hatfield	Nunn
Cochran	Heflin	Packwood
Cohen	Helms	Pressler
Coverdell	Hutchison	Roth
Craig	Jeffords	Shelby
D'Amato	Kassebaum	Simpson
Danforth	Kempthorne	Smith
DeConcini	Kerrey	Stevens
Dodd	Kerry	Thurmond
Dole	Kohl	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	

NAYS—42

Akaka	Feinstein	Mitchell
Baucus	Ford	Moseley-Braun
Boren	Glenn	Moynihan
Boxer	Graham	Pell
Bradley	Harkin	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Lautenberg	Sarbanes
Conrad	Leahy	Sasser
Daschle	Levin	Simon
Dorgan	Metzenbaum	Wellstone
Feingold	Mikulski	Wofford

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from Delaware would cause the deficit reduction attributable to the Finance Committee to fall below the level of deficit reduction that the Finance Committee was instructed to achieve by the concurrent resolution on the budget.

The point of order is well taken.

The amendment falls.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

ORDER OF PROCEDURE

Mr. SASSER. Mr. President, I ask unanimous consent that the distinguished Senator from Hawaii [Mr. INOUYE] next be recognized to offer his sense-of-the-Senate amendment on entertainment and meals; that there be a limit of 7 minutes for the Inouye amendment; that upon disposition of the Inouye amendment, Senator GREGG be recognized to offer a technical amendment on higher education; that there be a limit of 1 minute for Senator GREGG on his amendment; and that no other amendments be in order prior to the disposition of these two amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I gather that Senator GREGG's 1-minute amendment does not count as a Republican full amendment. We are going back to the Democrat side, because that is where it is supposed to be at this point after these two, and then back to us.

Mr. SASSER. That is correct.

Mr. DOMENICI. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. Two hours 40 minutes remaining on the debate for the bill.

Mr. SASSER. Parliamentary inquiry. Did we get the consent, Mr. President?

Mr. DOLE. Mr. President, reserving the right to object——

Mr. DOMENICI. Reserving the right to object, Mr. President, could I say to Chairman SASSER that we need to confer on the technical amendment of Senator GREGG? Could we hold that and go with Senator INOUYE and we will get right back to him?

Mr. SASSER. Of course.

Mr. DOMENICI. We do not object to the part of the unanimous consent that sends the Inouye amendment to the desk now as the matter before us, 6 minutes debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The request as modified is agreed to.

The Chair recognizes Senator INOUYE.

AMENDMENT NO. 529

Mr. INOUYE. Mr. President, I am offering a sense-of-the-Senate resolution on behalf of myself——

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order.

The Senator may proceed.

Mr. INOUYE. I am offering the sense-of-the-Senate resolution in behalf of myself, Senators HATCH, DOLE, BRYAN, REID, AKAKA, EXON, GRAHAM, HOLLINGS, DURENBERGER, GREGG, COATS, BROWN, MACK, COVERDELL, WALLOP, KERRY, BURNS, DOMENICI, and BREAUX.

The purpose of this resolution is to urge the House and Senate conferees to retain the 80-percent deductibility on business meals and entertainment expense.

The PRESIDING OFFICER. Would the Senator please send his amendment to the desk?

Mr. INOUYE. Yes, I will. This amendment has been cleared by managers on both sides.

AMENDMENT NO. 529

(Purpose: To express the sense of the Senate that the conferees on the bill should reduce or eliminate the proposed reduction in the 80-percent deduction of business meals and entertainment expenses)

Mr. INOUYE. 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 Hawaii [Mr. INOUYE] for himself, Mr. HATCH, Mr. DOLE, Mr. BRYAN, Mr. REID, Mr. AKAKA, Mr. EXON, Mr. GRAHAM, Mr. HOLLINGS, Mr. DURENBERGER, Mr. GREGG, Mr. COATS, Mr. BROWN, Mr. MACK, Mr. COVERDELL, Mr. WALLOP, Mr. KERRY, Mr. BURNS, Mr. DOMENICI, and Mr. BREAUX, proposes an amendment numbered 529.

Mr. INOUYE. 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 appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE RELATING TO THE DEDUCTIBILITY OF BUSINESS MEALS AND ENTERTAINMENT EXPENSES.

(a) FINDINGS.—The Congress finds the following:

(1) That—

(A) travel and tourism is the third largest retail industry in the United States and accounts for 11 percent of the total value of goods and services exported by the United States;

(B) in 1992, the tourism industry produced revenues in the amount of $369,000,000,000 which produced $44,000,000,000 in tax revenues; and

(C) of such tax revenues, the Federal Government received $24,000,000,000.

(2) The restaurant industry provides thousands of jobs in the United States.

(3) The American performing arts community supports, develops, and exports world-class performing arts.

(4) The reduction in the rate of the tax deductibility of business meals and entertainment expenses from 80 percent to 50 percent may have a negative impact on the United States restaurant, entertainment, and tourism industries.

(5) Any loss of revenues due to the reduction described in paragraph (4) may result in the loss of jobs in the restaurant, entertainment, and tourism industries, many of which are filled by young individuals in their first jobs and by members of minority groups.

(6) The unemployment rate among individuals and members described in paragraph (5) greatly exceeds the national unemployment rate of 6.9 percent.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the conferees with respect to this title will make every effort to reduce or eliminate the proposed reduction in the deductibility of business meals and entertainment expenses.

Mr. INOUYE. Mr. President, I wish to yield 3 minutes to Senator BRYAN of Nevada.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

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

Mr. President, I also thank the distinguished Senator from Hawaii, who has labored in behalf of a number of us to craft this amendment.

Mr. President, I had intended to offer today an amendment to strike the provisions of this bill which further limit the deductibility of business meal and entertainment expenses. I will not offer this amendment, but I would like to make some brief comments on this subject, and encourage Chairman MOYNIHAN to revise or eliminate this harmful provision in the conference committee.

Mr. President, the provision contained in this legislation would have a devastating effect on my State and the rest of the Nation. An estimated 165,000 jobs will be lost in the foodservice industry alone if the deduction is lowered to 50 percent; in my State alone, over 4,500 jobs could be at risk. The State of Nevada cannot afford this price tag.

I understand that the chairman of the Senate Finance Committee has expressed an interest in improving this provision. I truly hope this is the case because a reduction to 50 percent would be devastating to my States economy, and I am sure to the chairman's New York constituency.

Mr. President, we are all concerned about jobs and the economy. And coming from a tourism State I am particularly concerned about tourism jobs that as you know are directly impacted by business meal deductibility. In 1986, the Congress lowered the business meal deductibility from 100 to 80 percent. This hurt my State. It hurt many States. As a matter of fact, since 1986 the foodservice industry nationwide created 700,000 fewer jobs than it had in the previous 6-year period.

The foodservice industry is the largest retail employer in the country with over 9 million employees. In my own State of Nevada, our foodservice industry employs over 34,000 people. Business meals generate over $1 billion annually. About $104 million in lost business meal revenue would occur if this provision becomes law.

We hear rhetoric that this is a fat cat issue. Mr. President, nothing could be further from the truth. This is a legitimate business expense. I ask that you consider these facts:

A majority of those purchasing business meals are small business people. A National Restaurant Association survey shows that 70 percent of those purchasing business meals had incomes below $50,000 and 39 percent had incomes below $35,000.

Fully one-quarter of those purchasing business meals are self employed.

The average amount spent on a business meal, per person, is $9.39 for lunch and $19.58 for dinner.

Many small businesses rely on business meals as the only marketing tool available.

The fact of the matter is Mr. President, this is a jobs issue. The people who will be hurt the most are the people who can least afford it. People who want to work, like Kris Constentine and Valentina Paz, both mothers of two children who work at the Cousins Cafe in Las Vegas. As a matter of fact a majority of those employed in the food service industry are women, 12 percent are Hispanic, 12 percent are African-Americans, and 20 percent are teens—all of those least likely to withstand economic dislocation.

Mr. President and my colleagues, we started this process trying to create jobs during a slow economy. The best way to prevent further job loss is to strike the reduction of business meal deductibility from 80 to 50 percent in the budget reconciliation package. I urge you to support my amendment.

For all these reasons, I urge Chairman MOYNIHAN and the other members of the conference committee to eliminate this harmful provision during conference.

The deductibility of business meals and entertainment expense is a serious matter for those of us who come from States whose industry is primarily tourism. For those of us in Nevada each year some 30 million visitors come to our State. The largest retail employers in our own State would be those that are involved in the food service industry.

The effect of reducing the deductibility from 80 percent to 50 percent will have a national impact of a loss of 165,000 jobs and, in my own State of Nevada, some 3,400 jobs. All of us are concerned about jobs, and the restriction contained in this bill which limits the deductibility to 50 percent is, frankly, the wrong medicine for the economy.

The people that are most affected by this are the very people that we ought to be most concerned about. The majority of them are women, 12 percent are Hispanic, 12 percent are African-American, some 20 percent are teenagers. So these are the folks who can be most easily dislocated in the job market and who have historically found the greatest difficulty in seeking reemployment.

I commend my colleague for his effort in our behalf. I know that the distinguished chairman of the Senate Finance Committee also recognizes the impact on his own State. It is my hope that in conference we can ameliorate the impact of this, if not repeal entirely the provisions which reduce that deductibility. I thank my good friend.

Mr. INOUYE. Mr. President, I yield 1 minute to the distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the amendment from the Senator from Hawaii to instruct the conferees to retain the current 80-percent deductibility of business meals and entertainment expenses.

Mr. President, I hope my colleagues note that this amendment is a bipartisan one. I commend the Senator from Hawaii for his willingness to speak out on this issue. I offered an amendment to strike this provision from the bill last week in the Finance Committee. Unfortunately, it was defeated along party lines.

I sincerely hope that my Senate colleagues today and also the conferees note that this is not a partisan issue. This is a jobs issue.

The provision in the tax bill before us to lower the deductibility of business meals from 80 to 50 percent will be counterproductive to deficit reduction and economic growth. Although this provision is ostensibly aimed at large corporations, it will primarily hurt women and minority workers and small businesses.

Estimates prepared for the National Restaurant Association indicate that over 165,000 jobs will be lost nationwide by this provision. This is based on a projection that business meal sales will drop by almost $3.8 billion, which is nearly 10 percent.

In the 4 years following the 1986 Tax Reform Act, where the deduction for business meals was limited to 80 percent, real sales declined almost 6 percent in establishments with per person checks of $15. In fact, the 6 years since the 1986 Tax Act have been the worst the restaurant industry has seen in decades. From 1986 to 1992, restaurants generated 700,000 fewer jobs that they had in the previous 6 years.

Mr. President, most restaurants are small businesses with very thin profit margins. Seventy-two percent have annual sales of less than $500,000. Even small drops in revenue will go right to the bottom line, and often exceed the entire profit that many restaurants show each year. Since prices usually cannot be increased and labor is often the only controllable cost that restaurants have, the only way for many to deal with this will be to lay off workers.

Another important factor to note is that almost 60 percent of employees in the food service industry are women; 20 percent are teenagers, and 12 percent each are African-Americans and Hispanic. These groups are often the least able to economically stand the dislocation this provision will force.

Contrary to what many might believe, most individuals who purchase businesses meals are small business persons. Seventy percent have incomes below $50,000 and 39 percent have incomes below $35,000. Twenty-five percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low to moderately priced restaurants.

The average amount spent on a business meal, per person, is only $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fatcats, Mr. President.

The restaurant industry in Utah employs 43,000 people and pays annual wages of $300 million. It is an important sector of our State's economy. Some 917 jobs are estimated to be lost in the State from this provision. What do I tell a person who has been laid off from his or her job because of this provision, Mr. President? That this tax increase is merely closing a corporate loophole?

Much of the $15.3 billion in revenue that has been scored for this provision will not be realized. Like the luxury tax, this provision will hit the providers of business means much harder than the purchasers. The result will be fewer business meals purchased, which translates into lost jobs.

The loss of 165,000 jobs will also reduce the Treasury's intake of payroll and income taxes and increase the outlay of unemployment taxes.

I see no need to offset this provision with other tax increases. The President's plan has billions of dollars of new spending; let's cut some of that out before we raise anyone's taxes, especially taxes that will result in so many lost jobs.

I want to cut the deficit as badly as my colleagues in the majority do. But I don't think the way to do is through lost jobs—especially lost jobs to those in our society least able to afford it: women, often single mothers, and minorities.

Mr. President, this is an important amendment. We found that the Hatch amendment, during the debate before the Finance Committee, which would do this, was defeated. But I think, upon reflection, everybody in this body realizes that if we literally change the 80 percent rule down to 50 percent, we will cost at least 165,000 jobs at a time that they are very, very important.

The provision in the tax bill before us to lower the deductibility of business meals from 80 to 50 percent would be counterproductive to deficit reduction and economic growth. Although this provision is aimed ostensibly at large corporations, it will primarily hurt women and minority workers and small business people.

Like I said, it could cost us upwards of 165,000 jobs in an industry that, because of the 80-percent rule, has remained basically stagnant over the last 6 years. So this is a wise thing that the distinguished Senator from Hawaii is doing. I commend him for it.

Mr. DOLE. If the Senator will yield, I rise in support of the amendment. I wish we had the real amendment. This is a sense-of-the-Senate, but at least it is a signal to the conferees, and I commend the Senator from Hawaii and others for their support of this amendment. It is very important all across America.

Mr. HATCH. We hope that our conferees will hold fast to keeping this sense-of-the-Senate resolution intact in this particular bill, because it is absolutely critical to our country, to jobs, and to our economic development and small business. I thank my colleague from Hawaii, and I am happy to cosponsor the amendment.

Mr. INOUYE. I yield 3 minutes to the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, prior to coming back to the Congress, I had a small business. This small business had a score or two of employees. My employees and a I were encouraged—at least some of my key employees—to do what they could to maintain the business that I had and to develop new business. One of the ways of doing this was to buy meals for people, to entertain people. I was generous with my employees and allowed them to do this, because at that time you could deduct the cost of those entertainment expenses.

As a result of my generosity, Mr. President, cooks were employed, as were waiters, waitresses, dishwashers, linen workers, food suppliers, farmers, fuel suppliers, accountants, and janitors; a wide range of people had jobs as a result of that.

I think the Finance Committee was shortsighted in the information in the language they have in this bill, because the people I mentioned, from the cooks to the janitors, many would be put out of business. This provision in the finance bill we are going to vote on, in conference, should be eliminated. There is no reason for it. It is shortsighted, and it will cause the loss of about 165,000 jobs. It is wrong. I think that we should go with this sense-of-the-Senate resolution, which I hope will be accepted—and I am sure it will be—and have the Finance Committee report back in conference with a bill we can all live with.

Mr. INOUYE. Mr. President, do we have time remaining?

The PRESIDING OFFICER. One minute, ten seconds.

Mr. INOUYE. I yield to the Senator from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. President, I thank the Senator for offering this amendment. I think it is absolutely essential to make changes in this area. This Senate passed a FICA-type tax credit that was vetoed by President Bush. I think that is one of the other things that needs to be done to help small businesses, particularly restaurant owners and operators. I think that would be as important as this. This is a major step, and I support it with enthusiasm.

Mr. INOUYE. Mr. President, I ask that the following Senators be listed as cosponsors: Senators KOHL, CHAFEE, WARNER, ROTH, and KERRY of Massachusetts.

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

Mr. INOUYE. This measure has been cleared on both sides. I call for the vote.

Mr. GORTON. Mr. President, I rise today in support of the regulatory parity provisions contained in the Omnibus Budget Reconciliatory Act of 1993.

The overall purpose of regulatory parity for commercial mobile services is to ensure that like services are treated in a like regulatory manner. The committee took steps to fashion this legislation because disparities in

the current regulatory scheme, if allowed to persist, could impede the continued growth and development of commercial mobile services.

Under the regulatory parity provision, the Commission has wide discretion to fashion appropriate rules for commercial mobile services in order to ensure parity in the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar.

The amendment offered today by Senators STEVENS and INOUYE purports to give the Commission the flexibility to amend, modify, or forbear from regulation of new entrants. In my view, this amendment does not in any way require the Commission to treat providers of like services differently. Rather the intent of this amendment is to give the Commission the discretionary authority to fine tune its regulatory scheme for commercial mobile services, consistent with the purposes of the regulatory parity provisions of the bill.

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

The amendment (No. 529) was agreed to.

Mr. INOUYE. 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.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 30 seconds. I wholeheartedly support the Inouye amendment. Yesterday, I raised a question as to whether we should target and just make the performing arts all over America subject to the full corporate deduction for entertainment. That did not mean that I do not strongly favor the performing arts. I think this amendment is better.

Mr. SASSER. Mr. President, the next amendment in order—and we do not have it as part of the unanimous-consent request, but the Senator from New Hampshire [Mr. GREGG] has an amendment dealing with education that will take a minute.

AMENDMENT NO. 530

(Purpose: To require a State to charge institutions of higher education within the State a fee to offset the State's share of default costs)

Mr. GREGG. 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 New Hampshire [Mr. GREGG] proposes an amendment numbered 530.

Mr. GREGG. 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 809, line 24, strike "may" and insert "shall".

Mr. GREGG. Mr. President, I would like to ask the distinguished chairman of the Committee on Labor and Human Resources, Senator KENNEDY, if he will continue to work with me to explore, before this budget reconciliation bill is taken up in conference with the other body, potential options to the State cost-sharing provisions contained in section 12061 of the budget reconciliation measure.

Mr. KENNEDY. Mr. President, I will be pleased to continue working with the Senator from New Hampshire to determine whether we might identify alternative cost-savings that will be sufficient to generate the $300 million in budgetary savings anticipated from section 12061 of S. 1134. I certainly share the Senator's desire to find another way to generate these same savings as long as this can be accomplished without penalizing students or destabilizing the student loan system.

Mr. PELL. Under Senator GREGG's amendment, each State would charge a fee to schools with high cohort default rates according to a fee structure developed by the State and approved by the Secretary of Education. Each State's fee structure would include a process for exempting from cohort default rate fees those institutions that can demonstrate that exceptional mitigating circumstances contributed to their cohort default rates.

It is also my understanding that the committee intends that institutions such as historically black colleges and universities [HBCU's], tribally controlled community colleges, Navajo community colleges, be considered to meet the exceptional mitigating circumstances criteria developed by individual States for the purposes of carrying out section 12061. I further understand that other institutions with large minority enrollments, such as Hispanic-serving institutions, would also be considered to meet this exceptional mitigating circumstances criteria where appropriate.

Mr. KENNEDY. The chairman of the Subcommittee on Education, Arts, and Humanities is correct. Should the State cost-sharing provisions before us be retained by the conferees, the committee intends that in approving individual States' fee structures, the Secretary shall ensure that the special circumstances of HBCU's, tribally controlled community colleges, Navajo community colleges, and other institutions with large minority enrollments are recognized in each State's criteria for determining which institutions will be exempt from cohort default rate fees.

Mr. PELL. I thank the full committee chairman for clarifying this important matter.

Mr. GREGG. Mr. President, I, too, wish to thank Senator KENNEDY for his willingness to continue working with me to explore possible alternatives to the State cost-sharing provisions in the bill.

Mr. President, the purpose of this amendment is to eliminate the unfunded mandate language contained in the cost sharing part of the direct student loan language within the reconciliation bill. Many of us in this Chamber are very concerned about not shifting costs to States. This amendment accomplishes that goal and eliminates the unfunded mandate that would be in this bill.

Therefore, I urge approval of my amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 530) 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.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator DECONCINI now be recognized to offer an amendment—let me withhold that for a moment.

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

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

UNANIMOUS-CONSENT REQUEST

Mr. SASSER. Mr. President, I ask unanimous consent that Senator DECONCINI now be recognized to offer an amendment on the subject of Social Security wage threshold; that there be 20 minutes, equally divided, on the DeConcini amendment; that following the disposition of Senator DECONCINI's amendment, Senator GORTON of Washington be recognized to offer his amendment dealing with aviation fuel; that there be 25 minutes, equally divided, for debate on the Gorton amendment; and that no other amendments be in order prior to the disposition of these two amendments.

Mr. DOMENICI. Reserving the right to object, Mr. President. I cannot agree to the unanimous consent because some Members on our side have not had a chance to review the DeConcini amendment. Part of the consent we will agree to now, and that is that Senator DECONCINI will have 20 minutes

equally divided, and Senator GORTON will have 25 minutes, equally divided. The question of whether second-degree amendments are in order is not agreed to.

Mr. DECONCINI. Mr. President, I send an amendment to the desk——

Mr. BRYAN. Mr. President, point of order. Reserving my right to object.

Mr. SASSER. I think there has been objection.

Mr. BRYAN. Mr. President, I will not interpose an objection, but if I am recognized, I would like to inquire. I have, as the distinguished Senator from Tennessee knows, been waiting since 9:30 this morning for some indication of when I might offer an amendment; when might that be considered?

I am not trying to complicate the floor leader's very difficult challenge in accommodating all of the interests, but seemingly, for reasons I am not altogether clear of, events are occurring, and we are hearing so and so is authorized to go forward with their amendment. I have certainly no objection to the request being made on behalf of the Senator from Arizona or the Senator from Washington. But can I inquire, how does one get to a hearing on his own amendment?

Mr. SASSER. Well, I thank my friend from Nevada for his inquiry, and it is indeed a legitimate inquiry, I might say.

As always, Mr. President, we are simply deluged with amendments here, and we are trying to work them off in the best way that we can. We have been trying to establish an orderly process of compiling a list of amendments and then trying to take some of those amendments first of which there will be disagreement or some that can be accepted.

I was of the opinion that the amendment of the Senator from Nevada was on the list. At this juncture I cannot tell you when the list of the amendments might come up. But I suggest we get into the DeConcini amendment and then we will make a genuine effort to try to ascertain when the Senator's amendment might come up.

Mr. BRYAN. I thank my friend.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to pursue the same question of my friend from Nevada. We are dealing with a dwindling resource here which is time. There are obviously many amendments to be offered. None of us want to get in a situation being in the cattle car at the end of this process where we are unable to even make the briefest explanation of our amendments. Would it be possible to see a list of all of those who wish to offer amendments, the Senator from Nevada has an amendment, I have an amendment, and then some indication of how much remaining time is going to be allocated so we will know whether it appears to be a fairness and equity in the distribution of this dwindling resource being applied.

Mr. SASSER. I think that is a request that is reasonable and we will try to comply with that. I say to the Senator from Florida I do not think he will be encouraged when he sees the list of amendments and matches those against the remaining time. But we will endeavor to see if we cannot compile such a list and discuss it with our friend from Florida.

Mr. GRAHAM. We would just like to be enlightened if we are also going to be depressed.

Mr. SASSER. We will do our best to keep the Senator out of cattle car at the end but there are no guarantees.

Mr. DOMENICI. Mr. President, I object to the unanimous agreement but I have no objection to the Senator proceeding.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. The floor is open for amendment, am I correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 531

(Purpose: To increase the threshold levels that apply for determining whether a taxpayer is subject to tax on 85 percent of such taxpayer's Social Security benefits and reduce the threshold level for the surtax)

Mr. DECONCINI. 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 bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for himself, Mr. LAUTENBERG, and Mr. KOHL proposes an amendment numbered 531.

Mr. DECONCINI. 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 text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DECONCINI. Mr. President, I send this amendment to the desk on behalf of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Wisconsin [Mr. KOHL] and I am pleased to get an opportunity to discuss this amendment.

We are offering this amendment to protect America's middle-income seniors from an inequitable increase in the taxation of our Social Security benefits. This amendment is straightforward. It seeks only to raise a threshold, nothing more, to protect the 2.5 million seniors in the lowest income tax bracket from alarming unfair increases in their Federal income tax.

Mr. President, I strongly commend the efforts of the administration, especially President Clinton and Secretary Bentsen and Director Panetta for facing a difficult deficit dragon head on, no smoke and mirrors, difficult decisions for everybody here. While many of our colleagues can oppose part of this bill, and I have to oppose part of it, no one can argue that the administration has not faced up and really brought to us a deficit reduction plan. It certainly is a refreshing change from what we have seen in the past.

Mr. President, I also commend the chairman of the Finance Committee, Senator MOYNIHAN, and his colleagues on that committee for the important contribution that they have made here. The bill is certainly better than what came from the House, even though I have some serious problems with this bill before us.

Chairman MOYNIHAN responded to an overwhelming vote on the Lautenberg-Exon amendment in the fiscal year 1994 budget resolution. The Finance Committee raised the threshold for increased benefit taxation to $32,000 from $25,000 for singles and to $40,000 from $32,000 for couples filing jointly. In doing so the Finance Committee amendment succeeded in protecting roughly 3.8 million middle-income seniors in the 15-percent tax bracket. That was necessary and very proper.

From the increase of taxation of Social Security benefits for the 50 percent to the 85 percent that was part of that budget increase and is part of this reconciliation bill. However, everybody with the finance modifications almost 2.5 million middle-income seniors in the 15-percent tax bracket are being asked to bear a disproportionate share of deficit reduction. An older widow with $30,000 to $40,000 in adjusted gross income will face an average tax increase of 8.5 percent. And one with $40,000 to $50,000 adjusted gross income will have a 12.5-percent tax increase. Whereas a single, nonelderly worker with $115,000 of adjusted gross tax income has no income tax, no income tax increase under this bill.

That is simply not fair no matter what side of the aisle you are on. It does not make sense. If we do not enact this amendment an older couple with $50,000 in essence will be asked to pay a surtax that is greater than we are asking couples with 4 times that income. Where is the equity here? This proposal is not progressive; it is abusive and we need to change it.

The simple fact is the only Americans who will be paying higher taxes, income taxes, under this bill—excluding the energy tax—are moderate-income Social Security recipients and high-income individuals and couples earning over $115,000 and $140,000, respectively. Those are the ones who are going to pay a greater tax for these $50,000 income people, whereas the people in the $115,000 and $140,000 income level will not.

Mr. President, I support some parts of this bill. I agree that some taxes are going to be necessary in order to curb this runaway deficit. Under the bill as it is today all Americans are going to have to pay some energy tax if this becomes law. Though I have problems as a Westerner with this particular energy tax, I am prepared to vote for some taxes if indeed they are all dedicated to deficit reduction. However, I cannot support a proposal asking middle-income older Americans to sacrifice even more because of cuts in Medicare taxes on top of additional tax on Social Security benefits.

Taxing Social Security benefits at 85 percent for married couples with incomes of $40,000 and single individuals with incomes of $32,000 does not meet my test of imposing tax on the wealthy. I do not believe many Americans would construe income of $40,000 or $32,000 as being wealthy. Our elderly have extraordinary health and drug expenses that quickly eat away at income. Our American seniors know we can do better and that is why the American Association of Retired Persons, the Nation's largest organization representing 35 million seniors, strongly supports this amendment.

Mr. President, I ask unanimous consent that a letter dated June 22, 1993, from the executive director, Mr. John Rother be printed in the RECORD at an appropriate place following my remarks.

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

(See exhibit 1.)

Mr. DECONCINI. Mr. President, this amendment raises the threshold for increased taxation of benefits to $37,000 for singles and $54,000 for couples filing jointly. If enacted virtually no senior in the lowest income tax bracket today will be subjected to a greater tax on their Social Security benefits. There have been scores of speeches in the past year about how the wealthy have to pick up the burden for the excess of the 1980's and some of the 1970's.

The President ran on a platform last year that called for those who profited in the 1980's to pay for the 1990's. I agree. In the last few days, we have had more emphatic speeches from the minority and the majority alike urging us to protect middle-income Americans, particularly seniors. The fundamental question here is the same question that President Clinton and Majority Leader MITCHELL have repeatedly stated yesterday afternoon: Will the Senate impose the burden of deficit reduction on those making over $200,000 a year or the middle-income seniors?

Let there be no mistake. If you vote against this amendment, you are voting to protect those making $200,000 or more at the expense of the middle-income senior. Our amendment asks that burden of $5.3 billion in taxes be shifted from the middle-income elderly to the wealthy earning over $200,000. Our amendment would be paid for by lowering the income level at which the surtax proposed by the President kicks in from $250,000 a year to $200,000 or more a year. Our amendment merely asks the Senate to protect the middle-income older Americans instead of the wealthy.

Beyond the fairness issue, we must also question the long-term ramifications of taxation of retirement income. We already impose a hefty penalty on working beneficiaries whose wages exceed the Social Security threshold. Now we are adding to this by reducing the benefit of those who have put aside a little extra to be able to have a decent standard of living in retirement.

EXHIBIT 1

AARP,
June 23, 1993.

Hon. DENNIS DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: The American Association of Retired Persons supports your proposed amendment to the Budget Reconciliation bill that would raise the thresholds for increased taxation of Social Security. Under your proposal, middle-income older Americans will experience significant tax relief from the disproportionate tax burden they face under the Senate package.

The Finance Committee package, which improved on the President's original proposal, would tax 85 percent of Social Security benefits that exceed modified adjusted gross incomes of $32,000 (single) and $40,000 (joint). This provision would raise over $26 billion over the 5-year period. Although the rationale for this tax is that it is a tax on the "wealthy elderly," about one-third of the older taxpayers experiencing a tax increase are currently in the 15 percent tax bracket. While many would debate what is "wealthy," surely those in the 15 percent tax bracket are not wealthy by any standard.

Your proposed amendment would raise to $37,000 (single) and $54,000 (joint) the thresholds at which Social Security benefits would be taxed at the higher rate. Your amendment would protect almost all of the taxpayers in the 15 percent tax bracket. In addition, your amendment would largely prevent older taxpayers from being pushed into the higher 28 percent tax bracket simply as a result of the change in the taxation of benefits.

Older Americans are willing to support fair and responsible deficit reduction legislation. However, middle-income older persons should not be asked to bear a disproportionate share of the tax burden. In contrast to the other income tax increases in the package that affect only wealthy persons (above $115,000 of taxable income), middle-income older persons face substantial tax increases at far lower income levels. For example, a single person with $40,000 of adjusted gross income (AGI) or an older couple with $50,000 in AGI can experience tax increases over $1000.

This tax is especially onerous to those who, while not "wealthy," have saved enough to be middle-income in their retirement. We should not penalize those who saved for retirement, nor should we levy high marginal tax rates on these who choose to supplement their retirement incomes with additional wages.

Achieving deficit reduction requires shared sacrifice, but that sacrifice must be borne fairly. By raising the income levels for the increase in Social Security taxation to protect those in the 15 percent tax bracket, your amendment would restore a large degree of fairness to the package. The Association strongly supports your efforts to alleviate the disproportionate tax burden on middle-income older taxpayers.

If there are any further questions or we can be of further assistance, please have your staff call David Certner or Evelyn Morton in our Federal Affairs office at 434-3762.

Sincerely,

JOHN ROTHER,
Director,
Legislation and Public Policy.

Mr. DECONCINI. Mr. President, I have other remarks here, but I know the Senator from New Jersey, a cosponsor of this legislation, wants to make some comments.

I ask unanimous consent that I may yield to the Senator from New Jersey for a period of 5 minutes, without losing my right to the floor.

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

The Senator from New Jersey is recognized for 5 minutes.

Mr. LAUTENBERG. Thank you very much, Mr. President.

I thank the distinguished Senator from Arizona for yielding me this time. I am pleased to work with him in offering this amendment to protect middle-income senior citizens from tax increases on their Social Security benefits.

Mr. President, for the last 12 years, more and more of the Federal tax burden has been shifted from the wealthy to the ordinary American. It is fundamentally wrong and it is time to do something about that.

Mr. President, middle-class Americans are struggling—struggling to pay their health care bills, struggling to pay their food bills, struggling to keep their heads above water.

This struggle is often particularly difficult for our elderly. Living on a fixed income is not easy, especially for those who may need long-term care, nursing home care, and especially when seniors have to rely on some income that yields from dividends, whether it is interest or otherwise, when the rates paid on these instruments are low as they are today.

Mr. President, this amendment presents the Senate with a choice—a choice about priorities. When you get right down to it, the choice is this: Whose needs are greatest, elderly Americans with moderate incomes or individuals with incomes between $200,000 and $250,000 annually? I say that we protect the moderate-income seniors first, and that is the bottom line.

Mr. President, in some parts of the country, individuals making $32,000 a year might be considered wealthy. But I can tell you this: Regrettably, it is not so in New Jersey. My constituents have some of the highest costs of living in the country. Taxes are high, health care costs are soaring, housing costs

are going through the roof, and $32,000 just does not go that far.

To those who disagree, I would point out that the bill in its current form would still leave unprotected many senior citizens who are in the lowest tax bracket. And it is hard to say, if you are in the 15 percent tax bracket, that you are well-off.

Mr. President, I think it makes sense to protect those in the lowest tax bracket, and that is what this amendment is designed to do. The case for protecting these people is particularly compelling when you look at this bill as a whole.

The bill before us hits middle-income seniors not only with new taxes on their Social Security benefits, not only with $50 billion in Medicare cuts proposed in the House bill, not only with new taxes on gasoline, but with an additional $19 billion in Medicare cuts.

Mr. President, I know that these Medicare cuts are designed to affect primarily the providers—doctors, hospitals, health care providers—but there is no way to guarantee that it will not hit seniors, and that right around the corner is some restriction that is going to reduce their ability to get their health taken care of. And no one can guarantee that it will not adversely affect their ability to get the medical attention that they need and deserve. Many of us have real concerns about that.

Why are we hitting Medicare so hard? Well, from all appearances, it is to protect the oil and gas industry. And that will not wash with my constituents in New Jersey. It is designed to continue to fund the space station, designed to continue funding the super collider.

Under the circumstances, Mr. President, I think it is appropriate that we here go the extra mile and see if we can protect more middle-income seniors from the tax increase on their Social Security benefits.

I recognize that the bill before us does have thresholds above those originally proposed and uses the minimum threshold in the sense of the Senate amendment that I proposed to the budget resolution. So there is no question that progress has been made, and I appreciate the Finance Committees efforts in this area.

Now that we have the whole bill before us, however, this amendment provides us with a new choice. And I think the choice should be clear, except perhaps for those who care more about protecting the wealthy than protecting the middle-class seniors.

Mr. President, Social Security represents a compact among all Americans, a compact that reflects some basic values of our Nation. As a society, we have decided that senior citizens, who have worked hard and contributed to building our Nation, should enjoy at least a minimum level of security in their later years, so that senior citizens do not have to live in constant fear of a financial catastrophe and, not insignificantly, so that the sons and daughters and family members of the elderly can also rest assured that their loved ones will at least have a bare minimum level of security. And I do mean bare minimum, Mr. President. Nobody ever got rich off of their Social Security checks.

The point is that the care of the elderly is not just another policy goal.

I would ask the Senator from Arizona if I could have 2 more minutes.

Mr. DECONCINI. I yield, with the understanding under the unanimous consent agreement that I do not lose my right to the floor.

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

Mr. LAUTENBERG. Mr. President, care of the elderly is a fundamental value. It tells us a lot about what kinds of people we are and what kind of society that we live in.

In conclusion, I want to repeat the real choice that this amendment presents to each and every Senator: Who do we care about most? Middle-income seniors, or those with incomes above $200,000?

I think at this point all have heard what Senator DECONCINI and I are proposing by way of an offset for this program. I hope, after brief consideration, our colleagues are going to stand with the middle-class senior citizens and support this amendment.

I yield the time back, and I thank the Senator from Arizona for his work.

Mr. DECONCINI. Mr. President, I thank the Senator from New Jersey for his involvement in this. Actually we are here because of my friend from New Jersey, Senator LAUTENBERG, along with my distinguished colleague from Nebraska, Senator EXON. They were the first to raise this threshold during the budget time. We here are, once again, working together to see that the elderly who are receiving Social Security benefits under $50,000 are not going to pay extra taxes on those benefits. As the Senator from New Jersey has pointed out, $50,000 for an elderly couple does not make them wealthy Americans. Senior citizens have a lot of additional expenses.

Here is an example that will give just a little idea of what we are talking about.

Under the current law, the tax liability on Social Security is 50 percent. Now, a couple who has an adjusted gross income of $50,000, under the administration's proposal will now pay an additional $1,700 in income taxes or about a 31-percent increase over current law.

The Finance Committee raised the threshold level where the 85 percent kicked in to $40,000. The Finance proposal brought the added taxes down to $938. That is a good improvement.

However, by raising it to $54,000 as we do in our proposal, the elderly couple with an income of $50,000 is not going to pay anything.

I do not think that is asking too much. As the Senator from New Jersey pointed out, this is what is fair. These are the people who should not be paying. That sounds like a lot of money if you are only making $20,000, or not making anything, but $50,000 for senior citizens is a very small amount of funds.

This, indeed, is an issue of fairness. We already impose a hefty penalty on working beneficiaries whose wages exceed the Social Security threshold. Now we are adding to that by reducing the benefits of those who have put aside a little extra money to be able to have a decent standard of living and to pay for those medical costs that may not be covered by Medicare or by their insurance.

These middle-income seniors have sacrificed throughout their working lives, scrimping here and there, pinching pennies day after day, to protect themselves and their families when the time came for them to retire.

They have lived the American dream, and lived up to the American dream. They survived the Great Depression, fought the wars for the freedoms we all enjoy today, and raised a new generation of workers. They did their duties as citizens. And, after they paid their taxes, including Social Security taxes, they managed to sock away a little something to protect against being a liability to their children or their nation. In sum, the middle-income older Americans have done everything we have ever asked them to do. Now we are going to reward them with a tax?

These beneficiaries have planned carefully for their retirement based on a different set of rules. They cannot adjust for the lost income through work. If they could find a job, they would be penalized anyway under the existing law. They cannot adjust for the lost income from restructuring of income since most of that comes from non-inflation-adjusted sources. In short, we are changing the rules of retirement after the players have left the playing field. In my book, that is a technical foul.

Now, I know we change the rules around here many, many times more than we leave them alone. Change by itself is not the problem. Change by itself can be constructive. But it also can be very destructive, and it would be very destructive if we enact this legislation. Our constituents expect change and they expect taxes, but they do not want to take advantage of anyone who has followed all the rules.

The vast majority or our constituents also work and pay Social Security taxes. The vast majority will live long enough to retire. Many American workers already think that Social Security will not be around for them. If we continue to cut Social Security benefits to achieve the deficit reduction,

we are sowing more seeds of doubt about the Social Security system in the minds of those who are not in it yet, not to mention those who are recipients of it.

Naturally, there are going to be those who will oppose this provision because they perceive that increased taxes on the wealthy will stymie job creation. Even if I would concede that fact, which I will not, such analysis fails to credit retirement savings for the importance that it plays in our economic well-being in this country. Institutional investments have played an integral role in the financial market, providing stability as well as enormous assets for business development.

Who is to say the current provisions regarding Social Security benefit taxation will not cost more jobs in the long run? How great a disincentive will this provision be to millions of current workers if the trend towards increased taxation of Social Security benefits continues?

My distinguished colleague, who had an amendment up here not long ago, the Senator from Mississippi [Mr. LOTT] reminded us earlier today and reminded us earlier this year of the humorous little quip made by the late Senator Sam Ervin many, many years ago.

He said:

You can shear a sheep every spring, but you can only skin him once.

Mr. President, these middle-income Social Security recipients deserve better treatment than we have thus far provided in this budget package. They are willing to lose a little off the top, but they do not want to get skinned. These middle-income Americans merely want us to live up to their expectations that Congress is there for them just as they were when we called upon them to make sacrifices for their country. They are calling upon us to lift this burden from them today. This amendment does just that. And no more. I urge my colleagues to support our amendment to fulfill an obligation which our middle income seniors have earned.

The PRESIDING OFFICER (Mr. HARKIN). Who yields time? Does the Senator from Arizona yield the floor?

Mr. DECONCINI. I do not yield the floor, Mr. President.

Mr. President, I have the distinct pleasure of having a number of senior citizens in my State who fall into this category. My estimates indicate roughly 100,000 senior Arizonans will be affected by the Social Security tax increase if we do not enact this amendment.

Mr. SASSER. Mr. President, parliamentary inquiry. How much time is remaining for the proponents of the DeConcini amendment?

The PRESIDING OFFICER. Just 3 minutes 37 seconds.

Mr. SASSER. Let me say to my distinguished friend from Arizona, the very able chairman of the Finance Committee is here and, I think, wishes to speak in favor.

Mr. DECONCINI. I am glad to yield to the Senator.

Mr. MOYNIHAN. I am not going to speak in favor.

Mr. SASSER. I misunderstood. He is going to speak in opposition. I misunderstood. I am not controlling the time in opposition.

Mr. DOMENICI. Under the existing situation, we have a half hour, is that right?

Mr. DECONCINI. Will the Chair state again how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Arizona has 3 minutes 37 seconds; the Senator from New Mexico has 29 minutes 25 seconds. Who yields time?

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I want the other side to know we do not have any desire to use our 30 minutes at this point. What we are trying to do—we just got this amendment about 40 minutes ago. It is a very important amendment, and there are people with strong feelings on each side. We are trying to decide what we want to do. That takes a little while when people come in from outer space, headquartered everywhere. We need a little time.

While we are doing this, let me yield, nonetheless, 5 minutes to Senator SMITH off the 30 minutes on the amendment to speak on the bill or on the amendment.

The PRESIDING OFFICER. How much time?

Mr. DOMENICI. Five.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. SMITH. Mr. President, I thank my colleague for yielding this time to speak briefly on the pending bill, not specifically on the DeConcini amendment.

I would like to take a moment to talk about this budget without spouting the endless stream of mind-numbing facts and figures and numbers that we have heard in this debate over the past several days.

I could talk to you about where the national debt will be in 5 years under this plan, which will be substantially close to $6 trillion, or what percentage of the budget will go to interest on that debt, which will probably be in the vicinity of 20 percent. I could show my colleagues bright, colorful charts, as some have done, that show deficits and spending and taxes, like so many we have seen on this floor, charts that squarely place the blame for this problem one place or the other. But I am not going to do that because, if I did, I would miss the fundamental point about which this debate centers. This debate, like so many others in this Chamber, is about a philosophical division between the two political parties in America. I repeat, Mr. President, a philosophical division between the two political parties. It has never been more obvious than it is in this debate.

A budget just is not a set of numbers. It is not just numbers, it is priorities, where we want this country to go or not go in the next few years. The Clinton budget is over 1,000 pages thick, and I do not know how many have read it from page to page. I know I have not. If you want to know what President Clinton is all about, what he stands for and what he stands against, read it, look at the budget.

The word "reconciliation" makes it sound like we are trying to balance a checkbook. That is certainly part of what we are doing, but there is much, much more. We should call this legislation what it is: It is the Clinton plan for America. That is what it is. Separate all the debate, all of the conversation, all of the verbiage, and you will see this in the Clinton plan for America.

And what is the Clinton plan for America all about? Steering away here from the numbers for a moment, No. 1, the Clinton plan for America is about more taxes, not less spending, which is what the American people are telling us in letters and phone calls every day. It is not about that. The Clinton plan for America is about more taxes, lots of new taxes. I have been here for 9 years in the U.S. Congress as a Member of the House and Senate, and I have seen big tax increases; I have seen bigger tax increases. This is the biggest tax increase in American history.

Let me give the President the benefit of the doubt. I will say that the Clinton plan for America is about reducing the deficit. Those are parts, but we still have not touched upon the heart of the President's program. The Clinton plan for America is really about systematically and methodically increasing the size and the scope of the Federal Government. When you give more tax dollars out of the pockets of Americans to the U.S. Treasury, you expand the size and scope of Government.

This is not Chinese arithmetic. This is not a course in molecular biology. This is a debate about the appropriate role of the Federal Government in American life. That is what this debate is about. The President and most of his colleagues—not all, but most—in the other party want to dramatically expand that role. We have before us the fruits of their labor: A breathtaking expansion of the power of the Government over the people. That is what this bill is. That is not my opinion, Mr. President, that is a fact.

As I said earlier, this is a philosophical division.

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

Mr. SMITH. Have we gone through 5 minutes already? Will the Senator yield 2 additional minutes?

Mr. DOMENICI. I will. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 additional minutes.

Mr. SMITH. Mr. President, I am sure my colleagues on the other side believe an activist, expanded Federal Government will go a long way toward solving many of society's problems, but how can one explain this legislation? If you believe in a limited role for the Government, you do not propose a slew of new spending programs that are going to cost billions.

This plan does provide a new direction for budget policy, but it is the wrong direction. It does represent change, but it is the wrong change. We may end gridlock, but what good does it do if we drive off the cliff in ending gridlock? And that is where we are going. The cliff is debt, more debt, more deficits, on and on, and more interest on the national debt.

Where is this country heading if we do not tackle the spending addiction of the Federal Government, particularly in the area of entitlements? We are headed off a cliff and you cannot avoid it by filling the gas tank with more taxes. That will just put us over the cliff a lot quicker.

I am disappointed, frankly, that the Senate rejected the Republican alternative last evening. It was the only plan that would have slashed the deficit not only over the next 5 years but in the outyears as well. That is the key here. This plan that we propose took the deficit on a downward spiral and kept it going down. The Clinton plan takes it down briefly and then takes it back up like the hockey stick.

So that is what the difference is in this debate, Mr. President. That is the difference between the two plans. It is the difference between the two parties.

All over America and all over New Hampshire, I hear people saying to me: "cut spending first." I attended a rally this afternoon with Mr. Perot. Two-and-a-half million petitions were presented and people were cheering and saying: "cut spending first; cut it first; cut it second; cut it third; cut it fourth; and cut it." That is not what we are doing with this legislation, Mr. President.

I thank my colleague from New Mexico for yielding.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I want to yield 4 minutes off the bill to the distinguished chairman of the Finance Committee.

Mr. DOMENICI. Can we get the unanimous-consent agreement and include Senator MOYNIHAN in it, please?

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that no second-degree amendments be in order to the DeConcini amendment; that all but 10 minutes under the control of the minority be yielded back on the amendment; that on the disposition of the DeConcini amendment, Senator GORTON be recognized to offer an amendment; that there be 15 minutes equally divided; and that there be no second-degree amendment to Senator GORTON's amendment.

I also ask unanimous consent that I be allowed to yield 4 minutes off the bill to Senator MOYNIHAN.

Mr. DOMENICI. Do we have an understanding then that there will be no other time off the bill on either side? We will vote as the Senator indicated?

Mr. DECONCINI. Mr. President, I would respectfully suggest that I might want a few more minutes. I only have 3 minutes remaining, depending on what the debate is on the other side.

Mr. DOMENICI. We are only asking for 10. I believe the Senator has had 28.

Mr. DECONCINI. Is the Senator from New Mexico only asking for 10 minutes?

Mr. DOMENICI. Yes.

Mr. DECONCINI. I am sorry. I thought the Senator was asking for more. I withdraw that objection.

Mr. DOMENICI. I thank the Senator.

Mr. SASSER. I thank the Senator.

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

The Senator from New York is recognized.

Mr. MOYNIHAN. I believe the Senator from Texas had asked.

Mr. DOMENICI. The Senator from Texas——

The PRESIDING OFFICER. Who yields time.

Mr. DOMENICI. Two minutes to the Senator from Texas off our 10 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the DeConcini amendment. As I look at the DeConcini amendment, it is a pretty straightforward amendment. As compared to current law, it raises two taxes. One, it imposes a new tax on Social Security recipients.

I have already voted to eliminate the new Social Security tax in this bill. I do not want to raise taxes on Social Security recipients, imposing a tax on their benefits, period.

And the amendment before us will impose a new tax relative to current law on 3 million Social Security recipients.

Second, the amendment before us will impose a surcharge on small businesses and family farms that earn $200,000 a year. So Joe Brown & Son Hardware Store that earns $200,000 a year files as an individual under subchapter S of the IRS Code, they are going to see a surcharge of 10 percent imposed on them.

They are the very people we are hoping will create new jobs, new growth, and new opportunity. So I am voting against this amendment for two reasons. One, I do not want to impose Social Security taxes, period. And secondly, I certainly do not want more taxes on small business. I think this is a bad amendment.

We had an opportunity to eliminate the whole Social Security tax. I voted for it. I think we ought to eliminate it. I think it is unfair. I think it will discourage people from building up a retirement nest egg. But to come back now to vote for this amendment is to vote for Social Security taxes on 3 million people. That may be fewer than the alternative, but it is still too many for me.

Second, I am opposed to imposing taxes on small business and family farmers.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I understand that I am to have 4 minutes at this point on the bill.

The PRESIDING OFFICER. The Senator is correct. The Senator is recognized for 4 minutes.

Mr. MOYNIHAN. I thank the Chair.

I rise simply and briefly to restate the propositions I set forth early today when my distinguished friend from Mississippi offered a similar measure, which is to say why was it that every member of the Finance Committee who voted for this bill voted to raise the level of taxation on earned retirement benefits to the actuarial average for the country as determined by the Internal Revenue Service.

The reason, Mr. President, is that Social Security benefits as an earned retirement are similar to benefits from the private sector and should be treated as benefits from the private sector.

On May 4, our committee held a hearing on this matter, with two of the most venerable and respected authorities in social insurance in the world: Robert G. Meyers, who came to Washington in 1934 to work with Witte of Wisconsin, who drew up the proposals that were sent to the Congress by President Roosevelt, and to this day is a creative, active participant in these debates. He was executive director of the National Commission on Social Security Reform, which Senator DOLE and myself, with our beloved former colleague, Senator Heinz, remember. And we proposed the 50-percent level as a stage up to the 85-percent level. That is, 85-percent of earnings are subject to tax, which is true of the private pension. And Bob Ball, Social Security Commissioner under Presidents Johnson and Nixon testified alongside to the same effect.

Now, Mr. President, this will seem an abstract argument to make in the

midst of such a painfully self-interested, worried, concerned debate, but there are principles of social insurance, the principal that you pay in, that you have a number.

Ask anybody in the Chamber; ask anyone watching us, listening to us what is their Social Security number? They will know it. Why? Because President Roosevelt said I want everybody to have an account, a number on it, a name on it, just as you have a savings account in a bank, an insurance account with an insurance agency. It is yours. It is not something given you by the Government. It is yours. And it may not be taken away from you. It is yours.

If you ever get the idea that it is something that can be treated differently from other earned benefits, the day will come when you will find it is no longer your Social Security retirement benefit, old-age and survivors disability insurance; it is an entitlement. An entitlement is an all-purpose phrase. In a wonderful remark by Mr. Wessel of the Wall Street Journal, he said it is one of those antiseptic euphemisms that Washington likes when they start describing anything they do not want, they want to get rid of.

You can cut entitlements, Mr. President. You cannot cut Social Security benefits. They are earned. And taxing them like other earned benefits establishes that status.

I thank the Chair.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on our remaining time, I wish to yield—how many minutes do we have?

The PRESIDING OFFICER. Seven minutes thirty-six seconds.

Mr. DOMENICI. Two minutes to Senator PACKWOOD, 4 minutes to Senator DOLE and the remaining time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 2 minutes.

Mr. PACKWOOD. I thank the Chair. I thank my good friend from New Mexico.

The amendment of the Senator from Arizona [Mr. DECONCINI] is one more shot at the American family in terms of a marriage penalty. As we are well aware, in the bill as we were considering it, the marriage penalty would be full, 100 percent of the $250,000. Always in the past we have had a 40-percent differential between marrieds and singles because we did not want to penalize people who were single making roughly the same amount of money and getting married and paying more married than when they were single.

Under the amendment of the Senator from Arizona, the marriage penalty will go up in just the $50,000 bracket about $4,500 more than they would pay under the bill as it is. That is bad enough as it is. But he adds another $4,500, on average, penalty to a two-earner couple. This is not anything that can be called something that is oriented toward the family.

I thank the Chair.

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

Who yields time? The distinguished minority leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, I just wanted to indicate, I think anybody who voted for the Lott amendment earlier today will certainly vote against this amendment. If we are opposed to raising taxes on senior citizens who receive Social Security, it is still going to be 3 million included. This is double taxation. You are going to tax Social Security recipients. Then you are going to tax all these small business people at a lower level than we talked about this afternoon. There were 56 votes for the small business amendment.

If they knew this was coming, there probably would have been over 60 and they probably would have prevailed.

This is not a good amendment. Once you decide to go down the road of getting more taxes from senior citizens to spend on some other program, that is the first mistake. Everybody is going to try to find some way: How am I going to please a few?

You are still not going to please enough. There are still going to be 3 or 4 million under the old rule paying taxes. Now there are going to be 3 million more. I do not believe it is a very good idea.

In addition, after all the debate we had on the impact to small business men and women in America, this is even going to compound that.

So for all the reasons I can think of, and I am certain there are many more I have not thought of, this is not an amendment that should be adopted. This is double taxation. This is a double whammy on both seniors and small business.

I yield back any time I have remaining.

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes 50 seconds.

Mr. DOMENICI. I will not use it all.

Mr. President, let me just suggest for those who are wondering about this vote, if you voted for the Lott amendment today or even if you were tempted to vote for it, which would eliminate any new tax on Social Security recipients, you already voted right.

No new tax on Social Security.

Why would you want to support now a bill that puts a tax on some Social Security recipients and then does the double injustice of treating small business people who earn $200,000 a year as if they were millionaire wage earners, million-dollar income earners?

Senator KERREY of Nebraska has said a lot of good things on the floor. One I remember vividly as he was talking about do not be so anxious and excited about putting a tax on success.

It is a very interesting thing. If we do not have success in this country, we do not have jobs. Here we are saying to business people you have been successful, so we are going to give you a surtax on top of your income tax, which I assume is this new bracket, 10 percent on top of that. I do not know why anyone would vote for this amendment.

I yield any time I have. I assume we have the yeas and nays on the amendment.

Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Arizona has no time remaining on the amendment.

Mr. DECONCINI. Mr. President, I was under the impression that the Senator had 3 minutes under this unanimous consent.

The PRESIDING OFFICER. The unanimous consent agreement that was propounded by the Senator from Tennessee yielded back all time except for 10 minutes that was left with the Senator——

Mr. DECONCINI. Mr. President, I was under the impression that there was 3 minutes left to the Senator from Arizona. That is why I objected. Then when the Senator from New Mexico said they were only asking for 15 minutes, I said fine, I do not need any more time off the bill. Did the Senator from New Mexico agree to that?

Mr. DOMENICI. I thought what the Senator said is that he will not need any time since we were only using 10 minutes.

Mr. DECONCINI. Three minutes that I had remaining. I thought that was the understanding. I could be mistaken.

The PRESIDING OFFICER. Would the Senator ask unanimous consent to proceed for 3 minutes?

Mr. DECONCINI. I ask unanimous consent to proceed for 2 minutes for the purpose of only one response because I truly thought there was remaining 3 minutes. That is why I did not ask for time off the bill.

Mr. DOMENICI. I am going to agree to a minute and a half if the Senator wants it. What we are doing to the rest of the people is nobody is going to get a chance to have any amendments. I do not have any objection to the 3 minutes.

Mr. DECONCINI. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. DECONCINI. Mr. President, I voted for the Lott amendment. There are a lot of us in this body who do not think we should ever tax Social Security. Nonetheless, Social Security is in the bill that is before us. Right now, we have a chance to lower that. So if this

bill passes, no matter how many vote against it, we are going to see a tax on Social Security.

So if you want to lower that tax on Social Security, vote for the DeConcini amendment because 2.5 million Social Security recipients are not going to have to pay tax. So if you vote against this, and the bill passes, then you are going to have a tax and you will have helped no one.

So the best thing you can do folks, if you want to vote for taxes on Social Security, vote against this amendment. No ifs, ands, or buts. You have a chance right now to lower taxes. The largest organization that represents retired people, AARP, supports the DeConcini amendment. AARP believes this amendment is good for them because if we do end up taxing Social Security this removes some of the pain of deficit reduction for those least able to make up for the loss in income.

So tell me it is not fair. Tell me what is fair—do we tax people who are making over $200,000, or tax people who are making $50,000 or less and are on Social Security?

Mr. President, it is clear to me that this amendment squarely deals with the problem in the existing bill. I hope my colleagues will vote to correct some of the problem.

Mr. President, I would like to acknowledge the assistance of a couple of representatives from the American Association of Retired Persons in preparation of this amendment. Evelyn Morton and David Certner were of enormous help to myself and to Tim Gearan of my staff on this very difficult amendment. I thank them all.

Mr. President, I would also like to express my appreciation again to my friend from New Jersey, Senator LAUTENBERG and my friend from Wisconsin, Senator KOHL for their leadership and cosponsorship of this very worthy amendment.

I yield the floor.

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. DECONCINI. Mr. President, I thank the Senator from New Mexico for yielding.

Mr. MCCAIN. Mr. President, I oppose this amendment for one simple reason. It raises taxes on 3 million senior citizens relative to current law.

A short while ago, I voted for the amendment offered by Senator LOTT, myself and others to strip the Social Security tax increase from this bill. I am not now going to turn around and vote for imposing new taxes on our Nation's senior citizens, even though the amendment is marginally less burdensome than the underlying bill.

We do not need to raise taxes on Social Security benefits and we should not. This amendment would increase taxes on low- and moderate-income elderly citizens, and, for that reason, it is unfair and irresponsible. I oppose the amendment.

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

The legislative clerk called the roll.

Mr. INOUYE (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Washington [Mrs. MURRAY]. If she were present and voting, she would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

On this vote, the Senator from Hawaii [Mr. INOUYE] is paired with the Senator from Washington [Mrs. MURRAY].

If present and voting, the Senator from Washington would vote "yea" and the Senator from Hawaii would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—46

Akaka	Ford	Lieberman
Biden	Glenn	Metzenbaum
Boren	Graham	Mikulski
Boxer	Harkin	Mitchell
Bradley	Heflin	Moseley-Braun
Bryan	Hutchison	Nunn
Bumpers	Jeffords	Pryor
Byrd	Johnston	Riegle
Campbell	Kassebaum	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Sasser
DeConcini	Kerry	Simon
Dorgan	Kohl	Wellstone
Exon	Lautenberg	Wofford
Feingold	Leahy	
Feinstein	Levin	

NAYS—51

Baucus	Domenici	McConnell
Bennett	Durenberger	Moynihan
Bingaman	Faircloth	Murkowski
Bond	Gorton	Nickles
Breaux	Gramm	Packwood
Brown	Grassley	Pell
Burns	Gregg	Pressler
Chafee	Hatch	Reid
Coats	Hatfield	Robb
Cochran	Helms	Roth
Cohen	Hollings	Shelby
Coverdell	Kempthorne	Simpson
Craig	Lott	Smith
D'Amato	Lugar	Stevens
Danforth	Mack	Thurmond
Dodd	Mathews	Wallop
Dole	McCain	Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, against

NOT VOTING—2

Murray Specter

So the amendment (No. 531) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington [Mr. GORTON] is recognized to offer an amendment.

The Senator from Washington.

AMENDMENT NO. 532

(Purpose: To eliminate the imposition after 1993 of the 4.3 cents deficit reduction rate on aviation fuel)

Mr. GORTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. BRYAN, Mr. DANFORTH, Mr. MCCAIN, Mrs. HUTCHISON, Mr. HATCH, Mr. PRESSLER, Mr. MATHEWS, and Mr. DURENBERGER, proposes an amendment numbered 532.

Mr. GORTON. 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 636, lines 17 and 18, strike ", and" and all that follows to the period.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Mr. President, has the Senator from Washington offered his amendment yet?

Mr. GORTON. It has been read.

Mr. SASSER. It has been sent to the desk?

Mr. GORTON. It has been sent to the desk and read.

Mr. SASSER. I see.

Mr. President, we have no objection on this side to accepting the Senator's amendment.

Mr. GORTON. I am sorry. I did not hear the Senator.

Mr. SASSER. May we have order?

The PRESIDING OFFICER. The Senate will please be in order. Senators please clear the aisles and cease audible conversations on the floor of the Senate.

The Senator will withhold while the Senate is not in order.

Will Senators please cease audible conversation on the floor of the Senate?

The Senator from Tennessee will continue with the parliamentary inquiry.

Mr. SASSER. I thank the Chair for establishing order.

Mr. President, I am familiar with the amendment of the Senator from Washington. I think he is cosponsoring the amendment with Senator BRYAN, on our side. There are a number of Senators who wish to be added as cosponsors.

We find the amendment to be very meritorious, and we are willing to accept it on our side.

Mr. GORTON. Mr. President, I certainly thank the distinguished Senator from Tennessee for that generous offer, which this Senator will be happy to take up.

This Senator would like perhaps, under these circumstances, just 2 minutes to explain the nature of the amendment, and the Senator would inquire of his friend from Tennessee, simply because of the technical nature of this bill.

This amendment covers tax years after the present fiscal year 1993.

I have a second identical amendment to the 3 months of this year. May that be included as a single amendment with this?

Mr. SASSER. Yes. We have no objection to that.

Mr. GORTON. I thank the Senator. I will send that amendment to the desk.

Mr. SASSER. Could the distinguished Senator from Hawaii be added as a cosponsor?

Mr. GORTON. I am delighted to do that. The distinguished Senator from Oklahoma [Mr. NICKLES] has asked to be added as a cosponsor. I ask unanimous consent that the Senator from Hawaii [Mr. INOUYE] and the Senator from Oklahoma [Mr. NICKLES] be added as cosponsors.

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

Mr. SASSER. Before the Senator from Washington proceeds, could we get an agreement, in consideration for accepting the Senator's amendment, that he limit himself to 2 minutes? We are really running out of time.

Mr. GORTON. Yes.

Mr. DOMENICI. I ask the Senator, did you yield back your time?

Mr. GORTON. I agreed to take just 2 minutes.

Mr. DOMENICI. Mr. President, might I just say, I have been asking my friend, Senator JEFFORDS, to patiently wait here for an opportunity to speak for 3 minutes. I was going to use part of the amendment time if we agreed to that.

I was wondering if we might not ask Senator GORTON if he would agree that we could add 3 minutes to his time and let the distinguished Senator speak. I propound that request.

The PRESIDING OFFICER (Mr. BINGAMAN). Is there objection to that request?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, this amendment arises out of the desperate nature of the domestic airline industry in the United States and the recognition of that desperate nature by the President of the United States in helping to create a national commission to ensure a strong, competitive airline industry.

Nothing could do more to undercut the efforts of that commission than to add another $1/2 billion in taxes each year to the burdens which the airline industry has undertaken.

It is for that reason that this amendment to strike the fuel tax as it applies to jet fuel for the airlines has been proposed and now is a bipartisan proposal, originally by Senator BRYAN, from Nevada, and now several others Members on that side of the aisle, as well as on this side of the aisle.

Mr. BRYAN. Mr. President, I rise in support of the amendment offered by the Senator from Washington [Mr. GORTON].

As Senator GORTON has described, our amendment exempts jet fuels for commercial airlines from the transportation fuel tax contained in this legislation.

As we all know, the airlines have lost enormous amounts of money in recent years—$10 billion since 1990. In response, Congress has created a blue ribbon commission to evaluate the difficulties in the airline industry, and to report back to Congress with recommendations of actions that can be taken to address the problems in the industry. I am supporting this amendment because I believe it is inappropriate under these circumstances to impose additional taxes on the commercial aviation industry.

Tourism is the lifeblood of the Nevada economy, and a healthy, competitive airline industry is vital to our continued growth. In the last few years, the rapid growth in number of hotel rooms in Las Vegas has been unprecedented. While many of our tourists still arrive by automobiles, the airports and airlines will obviously be the major source of tourists to support our economy's future growth.

Mr. President, the airlines currently pay a number of fees and taxes in addition to their normal corporate tax liabilities. Foremost among these taxes is the 10 percent ticket tax, ostensibly to fund such programs as the Airport Improvement Program. In reality, all of these funds are not spent on airports, and instead go to reducing the deficit. To add another $2.5 billion to the airlines already large tax burden at a time when nearly every airline is losing billions of dollars a year will clearly not help create a healthier airline industry.

The National Commission to Ensure a Strong Competitive Airline Industry is charged evaluating and creating a policy to ensure a future of safe, efficient, and cost-effective air travel. Enacting a new fuel tax on the airline industry at this point will undoubtedly subvert the work of this commission. I urge my colleagues to vote in favor of this amendment.

Mrs. HUTCHISON. Mr. President, I urge my colleagues to support the Gorton amendment, amendment No. 532, which I am cosponsoring, and which exempts jet fuel used by the Nation's commercial airlines from the additional 4.3-cent/gallon transportation tax.

There are only a few carriers left in this country's commercial airline industry, and those that are left are facing staggering losses from having been the most heavily regulated and taxed industry in America.

Mr. President, allow me to illustrate my point. In the last 3 years, since the last tax increase on the airline industry in 1990, U.S. airlines have lost a combined total of $10.5 billion. This in turn resulted in the loss of 70,000 airline jobs in the same period.

To put matters into perspective, the airline industry has lost a cumulative total of $7 billion since the time the Wright brothers first took flight at Kitty Hawk in 1903 to the current decade. As I just stated and let me reemphasize it, the industry has lost $10.5 billion in this decade alone.

The proposed tax on jet fuel would cost the airline industry more than $500 million per year, or $2.53 billion over 5 years.

This tax burden is passed on to the American consumer. The relationship between increased taxes and increased ticket prices cannot be overstated. Figures show that a $170 ticket becomes a $200 ticket after factoring in taxes. Yet, we are affected beyond mere ticket price.

The airline industry employs more than 500,000 people who collectively earn wages of $20 billion a year.

The industry's vendors and suppliers provide an additional 8 million jobs.

And, let me say, although I was thrilled to see the space station authorization pass in the House yesterday, you don't need to be a rocket scientist to see the impact of the loss of these jobs.

The American people cannot afford it, and the American economy cannot absorb it.

Mr. President, let me close by saying that enough is enough. We cannot continue these tax and destroy policies.

And, therefore, I urge my colleagues to support the Gorton amendment to exempt jet fuel from the additional 4.3-cent/gallon transportation tax included in the reconciliation bill.

Mr. MATHEWS. Mr. President, I rise today to ask the indulgence and request the counsel of my colleagues, as this freshman Member of this body seeks to resolve a basic economic conflict.

A friend of mine in Tennessee is found of quoting Churchill. It is reported that Churchill said on one occasion:

> If you are 20 and not a liberal, you have no heart. If you are 40 and not a conservative, you have no mind.

This statement says a lot for where we are today. Perhaps we are 30 and feeling the opposing forces.

I speak today of the conflict between the need to aggressively address our out-of-control spending programs—particularly the deficit and ballooning national debt—and the recognition that unwise tax actions could very well bring down a hail storm on the economy, perhaps draining the remaining life blood from some of our basic industry.

Mr. President, I rise not to seek tax relief for this industry, but rather request that we at least hold in abeyance any further taxing until the patient exists the recovery room.

Mr. President, I speak today about the impact of an aviation fuel tax and the further harm such a tax will visit upon our country's ailing commercial airline industry.

There can be no doubt that our airlines are in serious trouble. Several major carriers have gone out of business. Others continue to struggle under chapter 11 protection. Annual dollar losses in recent years number in the billions including a $4 billion loss last year alone.

Nevertheless, Mr. President, the airline industry is not asking the Federal Government for affirmative assistance, such as a Chrysler-like bailout. The airlines simply ask that we hurt them no further. Yet the proposed transportation fuel tax, while appearing to be only pennies per gallon, will hurt the airlines adding billions more to the industry's already debt-ridden bottom line.

Additionally, a loss at the bottom line hurts more than shareholders and directors. It means that thousands more of the 500,000 U.S. airline workers will lose their jobs. Such a job loss has a known ripple effect in the economy, bringing further reductions an losses to the many industries that are dependent on selling their products and services to the airlines. It has been estimated that for every airline job lost, as many as five more are lost in related industries.

I would like to remind my colleagues that we are talking about an industry that paid over $7 billion in taxes last year. Even while losing money, the airline industry continues to incur huge tax liabilities because the main taxes on the industry do not rely on net income. In fiscal year 1992, the biggest single tax was a 10-percent Federal tax on all domestic tickets that totaled $4.5 billion.

Just 2 months ago, President Clinton named a national commission to ensure a strong competitive airline industry, calling on that group to provide a vision for a competitive future.

The Commission, led by former Virginia Governor Baliles, has made a promising start and we expect their report to be released on August 23d. The panel of experts advising the commission are extraordinarily capable and I am confident they will identify solutions to the crisis that can be implemented swiftly.

I am therefore asking this Chamber to withhold further taxing the industry, until the Commission report is available. If we do not wait, Congress risks having to face this issue once again before the summer is over. And I do not believe it will be a wise use of our time to consider such a tax twice.

In my own State of Tennessee, Mr. President, we have two airline hubs: Northwest in Memphis and American Airlines in Nashville. These two airlines are important components of our transportation infrastructure.

Mr. President, It is no secret that one of these two is experiencing serious financial problems. This week, this airline initiated what is commonly referred to as a fare war to generate immediate cash flow. The other line has followed suit. These short-term measures do not bode well for long-term financial stability both in Tennessee and across this Nation. With potential solutions pending on the immediate horizon, I cannot believe it is fair to further encumber the budgets of these airlines with an added fuel tax.

We have an ultimate responsibility to restore this essential transportation industry to a strong and competitive position in our own economy and further ensure this country's rightful place in the global economy.

With that responsibility in mind, I urge my colleagues to withhold making a decision on the aviation fuel tax and delay additional discussion of the matter until the Commission's report is available in August.

Mr. GORTON. Mr. President, I ask unanimous consent that Senator AKAKA and Senator NUNN be added as cosponsors.

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

Is it the Senator's intention to modify his amendment?

Mr. GORTON. The Senator will send his modification to the desk.

The PRESIDING OFFICER. The amendment is modified as indicated in the Senator's modification.

The amendment (No. 532), as modified, reads as follows:

On page 636, lines 17 and 18, strike ", and" and all that follows to the period.

Beginning on page 615, line 22, strike all through page 616, line 15.

Mr. GORTON. Mr. President, one of the few causes uniting President Clinton and both parties in Congress this year is the search for relief for a domestic airline industry in terrible shape and in need of help fast. Congress and the President moved quickly to establish the National Commission To Ensure a Strong Competitive Airline Industry and immediately charged the Commission with the task of reversing the rapid decline of the airline industry. As a member of that Commission, it is clear to me that in our attempt to reach that goal, the greatest single roadblock is a huge additional tax burden. That roadblock is exactly what this bill will impose.

When the President's Chief of Staff, Mac McLarty, solicited my views on the role of the Commission, he asked whether I had any concerns about the Commission's ability to attain its goals. I responded with one central concern: The Commission would report too late in the congressional year and that critical decisions affecting the airline industry might be taken before the Commission could issue its report. That fear is about to become reality.

This tax package includes a tax on airline fuels which will impose more than $500 million more a year in costs on our airlines—$2.53 billion over the next 5 years. This may be the straw that breaks the camel's back for that industry.

In addition, the House of Representatives has already passed its budget reconciliation bill. That version of the legislation includes a new, phased-in, Btu tax that would cost the airline industry more than $3 billion during the next 5 years.

One administration official, the Secretary of Transportation, Federico Peña, has pointed out the foolish nature of these burdensome taxes on an airline industry almost flat on its back. After Secretary Peña spoke out against this new tax, I testified last week to the Commission and made the very same points. Let us hope that these pleas do not fall on deaf ears and that the Commission quickly speaks out on this subject.

Given the urgent nature of this challenge, which cannot wait until the Commission issues its report on August 22, I am offering this bipartisan amendment with Senators BRYAN, DANFORTH, MCCAIN, HUTCHISON, HATCH, PRESSLER, MATHEWS, DURENBERGER, and others to strike from the bill the new 4.3-cents-per-gallon tax on jet fuel.

Since 1990, the airline industry has lost more than $10 billion. Major carriers—Eastern, Midway, Pan Am, People Express—have gone out of business. America West and TWA are in bankruptcy.

Today's headlines show that Northwest's board will meet tomorrow to review its options as it teeters on the edge of bankruptcy. If the Senate passes this crushing new tax on airlines in its current form, we will drive a stake further into the hearts of these struggling companies. Thousands of people in the airline industry will lose their jobs. Passenger fares may increase to the point at which air travel is unaffordable for many. This is hardly a result that we in Congress should encourage.

The Commission has been charged with revitalizing the airline industry for good reason. Entire communities

have already been disrupted and the effect of airline unemployment on people's lives is devastating. I cannot begin to estimate the revenue loss caused by the change of former airline employees from taxpayers to unemployment recipients. This spiral must be stopped. The far-reaching effects of a rapidly declining airline industry is what this debate is about: Is it wise to drive companies out of business and put people out of work through a self-defeating tax?

A study released 2 days ago by the Aviation Forecasting and Economics Co. confirms that view. It stated:

> The transportation fuel tax pending before the U.S. Senate would be a disaster for the U.S. airline industry, thwarting its much-hoped-for financial comeback and falling most heavily on financially distressed carriers.

Opponents may assert that it is unfair to exempt airlines while other transportation users must pay the new transportation fuel tax. While I oppose imposing this new tax on any industry sector, the airlines clearly are in a different category than other users, in a uniquely perilous state. Airlines already pay more than $5.1 billion a year in Federal passenger related taxes and user fees and $2.4 billion in income and payroll taxes for a combined total of $7.5 billion. These include a 10-percent domestic ticket tax which raises $4.5 billion, corporate income and payroll taxes that raise $2.4 billion, a $6 international departure tax for $225 million, a $5 immigration user fee that raises $210 million, a $5 customs user fee for $120 million and $1.45 agriculture inspection user fee that raises $74 million, all for a combined total of over $7.5 billion. $7.5 billion in taxes is a lot of money to pay for an industry that lost $4 billion last year.

The Aviation Forecasting and Economics Group also found that airlines have little opportunity to pass these costs along to passengers. It found that:

> If they try to pass the tax on, higher ticket prices mean fewer passengers, which means less revenue. If they don't they're saddled with higher costs. Either way, the impact is enormous, especially when viewed against the record losses of the last few years.

The group estimated that without a ticket surcharge, the tax would add an estimated $2.3 billion to airline operating costs over the next 5 years; with a surcharge, it would deprive the airlines of an estimated $2.8 billion in cash flow.

How can we expect our domestic airlines to climb out of bankruptcy and find the right track if we continue to drive their customers away and choke them with taxes? That is exactly what piling $500 million more a year in taxes on this industry will do.

It is not simply the health of the airline industry alone that this tax will affect. The airline industry depends on many different businesses to keep it running. While the industry itself employs more than 500,000 people, the industry's vendors and suppliers provide an additional 8 million jobs. The failing health of the airline industry has taken a terrible toll on these suppliers.

In my own State, Washington, Boeing has announced layoffs totaling 19,000 people because of major cutbacks in the production of all four of its commercial jet airplane programs. Thousands of other good people have lost jobs in engine manufacturing and in companies that produce other aircraft components. The travel and tourism industry, which generates nearly $700 billion in revenues a year and employs 8 percent of our work force, also suffers when airline travel is depressed.

Mr. President, the budget reconciliation bill is likely soon to be in conference. Unless we act today, the conferees will be faced with resolving the difference between a $3 billion Btu tax on the airlines or a $2.5 billion fuel tax. Either one of these options is deadly for the airline industry—the difference between taking cyanide or hemlock. Let's send a strong message to America this afternoon. Let's tell America that we care about jobs, that we care about our vital industries like aviation—vote for the Gorton-Bryan amendment and vote to strike the fuel tax on aviation.

Mr. MCCAIN. Mr. President, I rise in support of the amendment offered by Senator GORTON, myself, and others to eliminate the tax on aviation fuel.

The proposed tax would add more than $500 million annually to the operating costs of an already financially decimated industry. To make matters worse, the House-passed tax bill proposed by President Clinton would add another $850 million to the airline's annual operating deficit.

This tax will also hit hard in my home State of Arizona. By one estimate, the tax would cost America West approximately $15 million each year. This year, America West earned a first quarter profit of $2.1 million. If this were annualized, it would earn $8.5 million for 1993. This is only two-thirds of the money they'll need to pay their new tax bill—leaving the airline with about a $6.6 million shortfall. It completely wipes out the profit they need to get out of chapter 11 bankruptcy. America West hardly needs this kind of "help" from the Federal Government as they fight to emerge from chapter 11 protection.

This is irrational and irresponsible public policy and will undoubtedly result in additional airline failures, less competition, higher fares, and, most importantly, additional job losses. One industry estimate projects that the tax hike will cost the airlines 4.7 million passengers per year, slow the industry's fiscal recovery, and terminate 26,500 jobs.

The effect of the transportation tax in Arizona will likely be even more broad ranging than the problem for America West. To the extent that airlines are able to pass the costs on to consumers, Americans will undoubtedly fly less, cancel vacations, and cut back business trips. The full impact in Arizona and the rest of the United States is still unknown but the domino effect is certain to hurt employment and any economic recovery.

Travel and tourism in the United States will generate nearly $800 billion in gross output in 1993, or more than 5.7 percent of GDP, and create employment for 8.8 million Americans—more than 7 percent of the total work force. With the arrival of many visitors to Arizona during the winter months each year, the impact of the airlines as the driving force of the travel and tourism industry is fully felt. Unfortunately, an increased fuel tax will have an immense, negative effect on this essential sector of our economy.

Mr. President, if Members don't believe that we need a healthy, competitive airline industry, then they should vote against this amendment. But I think we do, and they should.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 505

Mr. JEFFORDS. Mr. President, I thank my colleagues for their courtesy.

Last year, my colleague from North Dakota, Senator CONRAD, and I introduced measures to give the American people the facts about how we are managing our money. We combined our approaches and offered an amendment to last year's tax bill. This approach was adopted by both the Senate and the House of Representatives. As we all know, however, the tax bill was vetoed. So here we are again debating tax increases.

Therefore, I have offered the amendment from last year to the present package. It was a good idea last year, and it is a good idea this year. Both Houses have passed this measure. I see no reason why we should not do so this year.

This amendment, No. 505, is the American Citizens Annual Report Act, which requires the Federal Government to do two things. First, we have to issue an annual report on our finances and make it available to the public. Every public corporation in America is required to provide such a report to its shareholders. Should we not provide the same for our shareholders? If we are going to ask the American taxpayer to pay more to reduce the deficit, we owe them no less than a means to track our progress.

The second requirement is that we give the taxpayer a summary of the annual report in the tax booklets we mail out each year. This summary will have to show the trend in the debt and the deficit. What better time to show the taxpayers how we are doing than when we ask them to write the check?

Mr. President, I will not have a chance to call this amendment up for debate. But I am going to ask for a vote, once time for debate has expired. Thus, I am using this time to put my colleagues on notice as to what is in this amendment. It appears on page S7768 of yesterday's CONGRESSIONAL RECORD. It is amendment No. 505.

If someone wants to debate this however, I would be happy to agree to a 5- to 10-minute, equally divided, time limit.

A vote for the amendment and against any points of order means you believe your constituents have a fundamental right to a report on what we are doing with their money. We have enacted worker right-to-know and community right-to-know, it is about time we had taxpayer right-to-know.

We passed this amendment when George Bush was president. We should pass it this year when Bill Clinton is President. When this package makes it to the President's desk, this amendment should be part of the package. Unless, of course, some feel we have something to hide.

This amendment will guarantee that every citizen can obtain a financial statement for the United States of America. We passed it last year. I urge its adoption this year.

Last, I want to commend my colleague from North Dakota. He is a cosponsor of the amendment and if not for the flu would be speaking today in support.

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

The question is on agreeing to the Gorton amendment No. 532, as modified.

The amendment (No. 532), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator ROCKEFELLER be recognized to offer an amendment regarding Medicare; that there be 20 minutes, equally divided, on that amendment; that upon the disposition of the Rockefeller amendment Senator DOLE be recognized to offer an amendment regarding sunsetting taxes; that there be 10 minutes, equally divided, on that amendment; that no other amendments be in order prior to the disposition of these two amendments; and that the Rockefeller amendment be in order notwithstanding the fact that it strikes the bill in more than one place.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. BUMPERS. Mr. President, reserving the right to object, and I am quite sure I will not, how much time will be left on the bill at the expiration of the unanimous-consent request?

The PRESIDING OFFICER. Approximately 68 minutes will remain.

Is there objection to the unanimous-consent request?

If not, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 533

(Purpose: To eliminate certain provisions)

Mr. ROCKEFELLER. 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 West Virginia [Mr. ROCKEFELLER], for himself, Mr. MITCHELL, Mr. HARKIN, Mr. SASSER, Mr. KENNEDY, Mr. WOFFORD, Mr. PRYOR, and Mr. RIEGLE, proposes an amendment numbered 533.

Mr. ROCKEFELLER. 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 178, strike lines 5 through 20.

On page 185, strike lines 11 through 16.

On page 186, beginning with line 14, strike all through page 187, line 6.

On page 212, beginning with line 7, strike all through page 214, line 24.

On page 227, beginning with line 6, strike all through page 233, line 10.

Mr. ROCKEFELLER. Mr. President, I am really happy and pleased to be able to say we have been able to further reduce the number of Medicare cuts that existed heretofore. This amendment would reduce the overall level of Medicare cuts from $67 billion to $58 billion. It would reduce the $19 billion in additional Medicare cuts—that were included in this package above what the Finance Committee was required to do—to $10 billion.

First, I would like to start out by emphasizing that the President's proposal called for $56 billion in Medicare and Medicaid cuts. The debate over the past several months has led people to believe that the President didn't make painful choices, painful cuts.

During the committee process, the Finance Committee increased the level of cuts from $48 billion to $67 billion, an increase of $19 billion. That is what it took to get this bill out of the Finance Committee. It was a compromise package, and I supported it. But as we moved the bill to the floor for debate, we needed to make additional adjustments. I congratulate my colleagues, including Senators HARKIN, WOFFORD, MIKULSKI, BOB GRAHAM, PAUL WELLSTONE, HOWARD METZENBAUM, CAROL MOSELEY-BRAUN, HOWELL HEFLIN, and PAUL SIMON, for their determination to further reduce the cuts down to the level of $10 billion. I am extremely pleased we found a way to accommodate their concerns.

Because of the nature of this amendment, it was very tricky to do. Because of the nature of this amendment and Parliamentarian rules, we could only strike full sections and not modify certain parts. In any event, what we did, we tried to do fairly. We restored funding to both rural and urban hospitals, rural health clinics and urban community health centers, and other medical providers such as hospice care and home health care.

Because of the budget rules we were not able to restore much in the way of payment to physicians, which I personally would have liked to have done. But I hope that can be addressed in conference.

While I share the concern expressed by many of my colleagues over the past day and a half about the projected growth of the Medicare Program, I continue to believe very strongly the way we get at that is in the overall context of health care reform.

Very importantly, I hope this amendment will help restore faith among many of the health care providers who earlier this year accepted the $48 billion in Medicare cuts that were in the President's package in the spirit of shared sacrifice. Some of that spirit began to evaporate, however, as we increased the Medicare cuts. I am very pleased that they are now down to only $10 billion in additional to our budget resolution instructions.

Specifically, and in conclusion, this amendment would restore reductions in payment for hospital capital, restore the full update for hospice services, restore special payments for teaching hospitals, delete a provision that would have limited hospital outpatient payments, and restore updates for some part B services, such as home health care, community health care centers, and rural health clinics.

Overall this amendment restores $9 billion in Medicare cuts. I hope all of my colleagues will support the amendment.

Mr. KENNEDY. Mr. President, I join my colleagues in the Senate in supporting this amendment by the leadership to reduce the severe cuts in Medicare proposed by the Senate Finance Committee.

This amendment reduces the Medicare cuts by almost $9 billion. It represents a solid step forward in the budget negotiations. I hope we can agree to further reduce the depth of Medicare cuts in the conference.

Medicare providers—and the elderly and disabled citizens who depend on Medicare—should not be disproportionately burdened with severe budget cuts, just as we are about to consider comprehensive health care reform for the first time in many years.

I am particularly pleased that, with the support of the majority leader and

Senator HARKIN, this amendment will prevent deep and unjustified cuts exceeding $2 billion for teaching hospitals. Our academic medical centers are a priceless national resource. Other insurance payers help to subsidize the costs of essential medical education and research, and Medicare should continue to fund its share.

These cuts would have been especially harsh for Massachusetts and other States which have some of the finest medical centers in this country and the world. They are training the health professionals of the future. They are the sites of the most complicated and most advanced care, and much of the Nation's cutting edge clinical research. Massachusetts is a net importer of patients and a net exporter of physicians. Our academic medical centers have a key role in the national health care system and in our local economy.

Boston teaching hospitals employ 41,800 people. Without this amendment, they would have lost $87 million in Medicare funds over the next 5 years. Restoring these funds will continue Medicare's commitment to pay its fair share of medical education and training, rather than passing these costs on to the private sector.

Clearly, we need to train more primary care physicians, and achieving that priority is one of the principal goals of comprehensive health reform. But it makes no sense to use a meat-axe approach to slash funds for teaching hospitals that train the best specialists in the Nation. I urge the Senate to approve this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I will be delighted. The Senator from Maryland would wish how much time?

Ms. MIKULSKI. Three minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Ms. MIKULSKI. Mr. President, I rise in support of the manager's amendment to reduce the cuts in Medicare to $10 billion and leave intact Medicaid.

I rise in behalf of this amendment as the subcommittee chair on aging in Senator KENNEDY's Committee on Education and Human Resources.

I chair the subcommittee that will do many things to help the elderly of the United States of America and have studied these issues in great depth. In looking at the original proposals to cut Medicare, I was shocked to find many of our colleagues in their eagerness to cut the deficit were about to gouge Medicare and sabotage the efforts to achieve health insurance reform later on this year.

I, and the coalition who raised this issue, absolutely do support deficit reduction. But we also support the need to do health insurance reform, which will be true deficit reduction because it will be the way to get the handle on ever-escalating Medicare and Medicaid funding.

The reason I support the manager's amendment is I think it achieves several important accomplishments.

No. 1, from the standpoint of being a beneficiary, there will be no means testing in Medicare, and I think that is a significant victory.

There will be no additional premiums on senior citizens, and I believe that is a significant victory. And there will be no cost shifting on the elderly that would cause them to bear an even greater burden.

Also, this does something else that is important. Because of the way it has been structured, it will not place at risk the solvency of urban and rural hospitals and health care facilities that often share and provide the most significant care to the elderly and to the uncompensated cases.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Ms. MIKULSKI. I wish to conclude that I support this because it leaves Medicaid intact and leaves Medicare strong enough to do health insurance reform. I am willing to swallow the strong medicine and support the manager's amendment.

Mr. ROCKEFELLER. Mr. President, I yield 2 minutes, if I might, to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. WELLSTONE. I do not know whether I will even need 2 minutes. This has been a long process of negotiation. I would just like to make three points.

The first point I would like to make is that I do not think what we do here in Washington is just about strategy or playing poker—all the rest. I think it has to do with people's lives. I feel very good about this agreement because I think by lessening the cuts in Medicare we have done something very positive and important to hospitals and providers and the people they serve. I feel very strongly about this.

The second point I want to make is one of just thank you. I would like to thank the majority leader, I would like to thank Senator ROCKEFELLER, and I would like to thank the President who was more than willing to listen; who was more than willing to sit down and talk with us, and was more than willing to try and work out an agreement that I think is agreeable to all.

I think, for me, having been here in the U.S. Senate about 2½ years, this is one of the finer moments, because I think we have really taken an important step forward. I have most appreciated the process of working with my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 1 minute, 1½ minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I support this amendment. I think it is extremely important for medical research and for the long-range health care. I think several of us in this Chamber are exhibits to the improved medical care of teaching hospitals and the research that has gone on. I support this amendment.

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute and 22 seconds.

Mr. ROCKEFELLER. I yield all of that to the Senator from Iowa.

Mr. HARKIN. I thank the distinguished Senator from West Virginia for his leadership in this area. This is a wonderful amendment. I support it wholeheartedly. It is a victory for seniors throughout America. I think it is a step in the right direction. I thank the distinguished majority leader for his help in very tough negotiations.

I know we are working on very tight margins on this bill and I know the Senator from West Virginia [Mr. ROCKEFELLER], worked very hard to hammer out an agreement and compromise that really does protect senior citizens in America. There were tough negotiations. I just want to say thank you very much to the Senator from West Virginia for protecting seniors in America from getting cut any more than they had to. This is a tremendous step in the right direction. I compliment him for his leadership in this area.

As you may know, I was prepared to offer an amendment on behalf of myself and Senators DECONCINI, MIKULSKI, WELLSTONE, METZENBAUM, FEINGOLD, and SIMON to reduce the Medicare cuts from $19 billion to $10 billion. This amendment accomplishes the same goal and deserves the support of every Member of this body.

Mr. President, the package before us is extremely important and I want to commend Senator MOYNIHAN for the job he did in bringing his committee together. We simply have to get our deficit under control, and this bill provides needed tough medicine for our economy. This package contains real deficit reduction of over $500 billion over the next 5 years, the largest deficit reduction package in history. Gone are the days of trickle down and smoke and mirrors. This package instead asks those that got the breaks over the past 12 years to pay their fair share and reduces the deficit by making tough choices.

However, Mr. President, as I have said repeatedly, the cuts to Medicare contained in the pending bill are simply not acceptable. The Senate bill cuts the health program for America's elderly and disabled by $67 billion,

about $19 billion more than the House bill. Included in the cuts are significant reductions in payments to vulnerable rural hospitals and increases in beneficiaries' costs.

The additional Medicare cuts have a number of damaging implications. First, some of the cuts will indirectly result in increased out-of-pocket health costs for the elderly and disabled. Cuts in payments to doctors, hospitals, and other health professionals will lead to more of these providers charging over and above the amount Medicare will pay, leaving seniors with a greater share of the costs. While most seniors have private supplemental insurance coverage for Medicare copayments and deductibles, these balance-billing costs hit them directly in the pocketbook.

Second, without controls on overall health costs, many of these cuts will be passed on in higher charges to younger Americans with health insurance, simply shifting costs from the Government to the middle class. So without the comprehensive health care reform that we need, at best, these cuts are simply shifting costs health costs, not lowering them.

Third, for rural and urban areas with high numbers of elderly residents and shortages of health providers, the cuts will most likely reduce access to care by forcing some hospitals to close and increasing the number of doctors refusing to accept new Medicare patients. These providers can not simply shift the costs to patients with private insurance, because they just do nothave them. Take Greene County Medical Center in Jefferson, IA, a small rural hospital. Last year, 93 percent of their patient days involved hospitalizations of Medicare or Medicaid patients. Of the other 7 percent, 4 were bad debt cases—they had no insurance. 3 percent of the patient days that were paid for were for privately insured patients. So when Medicare payments that already fail to meet their costs are further reduced to hospitals like Greene County, the result is direct—fewer staff, fewer services, and all too often closure. And in Iowa, at least one in 10 of our hospitals are teetering on the edge of closure. And in rural, small town America, hospital closure means reduced access to care and the loss of a major economic force in the community.

Fourth, every dollar we cut from Medicare is a dollar we cannot apply to health care reform. This extreme level of cuts will make a difficult job that much tougher. And we simply cannot afford to put more hurdles on that track.

Mr. President, this amendment would take a significant step towards reducing the excessive level of Medicare cuts in the bill and preventing their adverse consequences. I would have preferred to have eliminated all the additional cuts, but this is a critical first step.

Mr. President, our amendment is a modest step to protect senior citizens and the middle class. If we can cut the added $19 billion to $10 billion here, we can get the cut down to a more acceptable level in the upcoming conference.

It is a fair and greatly needed change and I urge all my colleagues to join us in supporting it.

Mr. ROCKEFELLER. Mr. President, if there is any time left I yield such time to the Senator from Ohio.

The PRESIDING OFFICER. There are 15 seconds left.

Mr. METZENBAUM. Mr. President, I join my colleagues in saying this is a major move in the right direction. It helps the senior citizens. It was very difficult and hard negotiation. I appreciate the help and assistance the Senator from West Virginia and majority leader gave. I think we have made this bill a far better bill than it was before and I thank them for their cooperation.

The PRESIDING OFFICER. All time has expired on the proponents side.

There are 9 minutes and 40 seconds on the opponents side.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. ROCKEFELLER. Will the Senator from New Mexico yield just so I may add Senator AKAKA as a cosponsor to the amendment?

Mr. DOMENICI. Of course.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor.

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

Mr. DOMENICI. Mr. President, we yield back any time we have on the amendment. Do you want to proceed to the adoption of the amendment?

Mr. CHAFEE. Mr. President, I ask unanimous consent that I be added as a cosponsor.

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

All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 533) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Republican leader is to be recognized to offer an amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I am advised that the Republican leader is on his way and will be here momentarily to offer the amendment, pursuant to the previous order.

Mr. DOMENICI. Mr. President, while we are waiting for the minority leader, he is going to offer a sunsetting amendment with reference, I think, to all of the taxes in this bill. How much time is left on the bill?

The PRESIDING OFFICER. Approximately 72 minutes remain.

Mr. DOMENICI. I thank the Chair.

AMENDMENT NO. 536

(Purpose: To sunset the tax hikes)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself and Senators WALLOP, GRAMM, COHEN, and DOMENICI and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. GRAMM, Mr. WALLOP, Mr. DOMENICI, and Mr. COHEN, proposes an amendment numbered 536.

At the appropriate place, add the following: "All changes in revenues contained in this bill which raise revenues, shall cease to be effective, and the tax rates shall revert to the status quo ante this bill, on September 30, 1998."

Mr. DOLE. Mr. President, this is a very simple amendment, very short. Maybe it can be accepted. It just says in 5 years the largest tax increase in the history of the world would end with sunset. The sun goes down on the largest tax increase in world history. Then we can take a look at it. If it does all these things we have been told it is going to do with the deficit, then I assume we will have a chance to reexamine it and extend it at that time.

We do a lot of that from time to time. It seems to me it gives the package 5 years to prove itself. We have had all this great rhetoric about how we are going to reduce the deficit. The taxes are bad enough. We do not want them for 1 minute, but this bill says 5 years. So it seems the best thing we can do to be constructive and to help the American people in the event this awful package should pass—we hope it fails—is to have some safety net there so that at the end of 5 years, we start over. The President comes back, whoever the President may be in 5 years—there probably will be a different President—but whoever the President might be, he will come back and start over and have to convince the Congress this was a good idea in the first place.

Mr. MOYNIHAN. Mr. President, may we have order? The Republican leader is speaking.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Republican leader may proceed.

Mr. DOLE. Mr. President, how much time do I have left on the amendment?

The PRESIDING OFFICER. Four minutes remain on the amendment and 5 minutes on the opponents side.

Mr. DOLE. Mr. President, I was sorry I was not on the floor earlier when the

distinguished Senator from Michigan [Mr. RIEGLE] had a map of the United States showing how you get to Kansas by going through New Hampshire.

I have been in touch with the airlines, and I learned it is easier to go through Detroit, so I think I may be changing my itinerary. And you get a layover there for about an hour and that will give you enough time to have a press conference in Detroit and then go on to Topeka or Kansas City.

So I wanted to accommodate the Senator from Michigan. We will be happy to work it out with him if he is interested.

I would like to yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, if there is another seat on the plane, I would like to make that trip to Detroit with the Republican leader.

Mr. President, I think it is very interesting, there are tax provisions in this bill that are temporary. The R&D tax credit, 12 months, temporary. It ends and we have to come back and do it again. The targeted jobs tax credit, little bitty provision but it only lasts 12 months. Then it is sunsetted and we have to do it again.

But is it not interesting that every one of these big tax increases—the tax on Social Security, the tax on gasoline, the tax on small business, the tax on family farms, the tax on income—all those are permanent.

What this amendment does is simply this: It says let us sunset them at the end of this budget and go back and see if, in fact, these spending cuts promised in 1997 and 1998 will ever be made. If they are made, if we have made progress, if this really does put America first, then we can debate it and decide whether it was a good idea.

But if, as many of us on this side of the aisle and almost everyone in America believes, that this is a put-Americans-out-of-jobs program, then we ought to have it so that these taxes are not forever and that we get an opportunity to go back and look at them again. If we did not get the spending cuts, then it ought to be a burden on those who want these taxes to explain to us why they ought to stay in effect.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I ask I be yielded 1 minute.

Mr. MOYNIHAN. Honored to do.

Mr. MITCHELL. Mr. President, I think way down deep that the distinguished Republican leader wants this bill to pass because he keeps talking about the world record tax increase and, since 1982 and continues this very moment, the world's record tax increase is the one, of course, that he pushed through as chairman of the Senate Finance Committee during the Reagan administration.

Mr. DOLE. Will the Senator yield?

Mr. MITCHELL. Yes, I will yield.

Mr. DOLE. That is the year we closed all those loopholes. [Laughter.]

Mr. MITCHELL. Mr. President, that is a record that is a long one. Eleven years he has held the record for pushing through the biggest tax increase in American history. I think way down deep—if he can give us a little help to pass this bill, we are going to relieve him of that world record.

Mr. DOMENICI. Mr. President, I might say—I have some time left—I might say, you cannot blame him for the whole thing. I was chairing the Budget Committee, and we ordered him to. [Laughter.]

Mr. DOLE. He made me do it.

Mr. MOYNIHAN. That is my excuse.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes.

I am glad to see the debate coming to a conclusion on an agreeable and understanding note that we have to do this and that we will do it.

Why do we have to do it, Mr. President? Because after 12 years of mounting deficits and devastatingly increased debt, we are sending a message to the financial markets of the United States and of the world, which now have as much effect on our affairs in a manner never before known because of the debt we have incurred, that we are going to stop it.

That message has already brought long-term interest rates to the lowest level since the 1970's; long-term interest rates. Those are the calculations that really lead to business investment and individual savings. And the people—those investors, those manufacturers, those business leaders—have to know that this is for real; it is not for 5 years; it is for the rest of this century. It is for a new era in the American political economy in which we pay our bills, meet our obligations and retire the debt of the last decade and more.

This is a permanent measure for long-term growth and long-term low-interest rates. The rates must be permanent.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DOMENICI. How much time do I have left, Mr. President?

The PRESIDING OFFICER. One minute and nine seconds.

Mr. DOMENICI. How much time does the Senator want?

Mr. CHAFEE. Fifteen seconds.

Mr. DOMENICI. I will give you 1 minute off the bill and then I am going to accommodate another Senator.

Mr. CHAFEE. My question to the distinguished Senator of the Finance Committee is, taking all his assumptions, when he is through, if this bill should pass, will not the debt of the Nation increase 1 trillion in the next 4 years?

Mr. MOYNIHAN. Unless the interest rates continue downward, stay down, the cost of servicing $3 trillion of debt incurred in 12 years will continue to go up because now we are borrowing money to pay interest. The object of this bill is to put an end to that in the law. This is a bill for the long term, and so, sir, must the rates be.

Mr. CHAFEE. Is the answer "yes"?

Mr. MOYNIHAN. The answer depends upon the outcome tonight.

Mr. CHAFEE. Under the Senator's assumption——

Mr. MOYNIHAN. The answer is——

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. Yes; and the answer is it would be worse absent that, and if we do not know it, you may be sure financial markets do.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I would like to ask consent to take my 1 minute and 9 seconds, and we have agreed on an amendment—both sides have agreed on an amendment that Senator MCCAIN and Senator INOUYE have. In fact, the agreement is with Senator MOYNIHAN, the chairman of the Finance Committee, Senator PACKWOOD is ranking, that the Indian incentive amendment of Senator INOUYE would be adopted.

Mr. MOYNIHAN. That is right. We will do that next.

Mr. DOMENICI. I was going to do it right now.

Mr. MOYNIHAN. Fine.

Mr. DOMENICI. Then I will not use my additional time for it. I do not want any time on this amendment.

Mr. MOYNIHAN. That is fine.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 537

(Purpose: To provide tax credits for Indian investment and employment, and for other purposes)

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. STEVENS, proposes an amendment numbered 537.

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 the RECORD under "Amendments Submitted.")

Mr. McCAIN. Mr. President, I would like to express my appreciation to the managers of the bill, and Senator INOUYE.

I offer this amendment that was passed last year as part of H.R. 11. It has to do with tax credits for investment and employment, tax incentives for Indian reservations.

As we all know, Mr. President, many reservations throughout this Nation suffer from staggering unemployment, nagging poverty, and huge infrastructure deficiencies.

I believe that this amendment will at least in some way attempt to address endemic and severe problems that exist on Indian country, and they exist because of a failure of this Nation to live up to treaty obligations.

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

The question is on agreeing to the McCain amendment.

Is there further debate?

Mr. MOYNIHAN. Mr. President, may I say on behalf of the chairman of Indian Affairs, we are happy to accept this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 537) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There remains 1 minute 40 seconds on the side of the Senator from New York on the Dole amendment.

Mr. MOYNIHAN. There is how much time?

The PRESIDING OFFICER. One minute 40 seconds.

Mr. MOYNIHAN. Mr. President, given that 1 minute and 40 seconds, may I just offer and ask to be put in the RECORD the interest rates on 30-year Treasury bonds.

A year ago, in April 1992, they were at 8 percent, 8.0. April 1993, they were at 6.75. That is an extraordinary change in the expectations of the world financial markets, and with that manufacturing, investment, saving. That is what deficit reduction is about. Is it easy? No; we would have done it before. Will it happen? It will happen tonight, Mr. President. This is a moment to do it. This is the moment to decide. We will make this decision on a most succinct point right now.

Mr. President, if the Senator from New Mexico will yield back time, I will too. I have to make a point of order.

The PRESIDING OFFICER. The Senator yields back all time.

The question is on the——

Mr. MOYNIHAN. No; I have a point of order, Mr. President.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I raise the point of order that the Dole amendment violates section 310(d) of the Congressional Budget Act of 1974.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Parliamentary inquiry. I wonder if I might be advised in what way it violates that provision?

The PRESIDING OFFICER. The Chair has not yet been advised of the budgetary scoring of this amendment.

The sunsetting of the tax provisions of the bill will cause taxpayers to change their behavior resulting in less revenues to the Federal Government.

Mr. DOLE. Parliamentary inquiry. Then if you eliminate somebody's taxes, they will be so depressed that it will lose money to the Government.

The PRESIDING OFFICER. The Chair's understanding is that the amendment, as drafted, would lose revenues to the Federal Government over the 5-year period.

Mr. DOLE. Further parliamentary inquiry. Would it lose more than the $4 billion, or has that been used up, the little surplus?

Mr. MOYNIHAN. The Senator just voted to do so.

Mr. DOLE. Me?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. There presently is no surplus revenue.

Mr. DOLE. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order against the pending amendment 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 agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY], is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY], would vote "nay".

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The yeas and nays resulted—yeas 48, nays 50, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—48

Bennett	D'Amato	Gregg
Bond	Danforth	Hatch
Brown	DeConcini	Hatfield
Burns	Dole	Helms
Chafee	Domenici	Hutchison
Coats	Durenberger	Jeffords
Cochran	Faircloth	Kassebaum
Cohen	Gorton	Kempthorne
Coverdell	Gramm	Kohl
Craig	Grassley	Lautenberg
Lieberman	Murkowski	Simpson
Lott	Nickles	Smith
Lugar	Packwood	Stevens
Mack	Pressler	Thurmond
McCain	Roth	Wallop
McConnell	Shelby	Warner

NAYS—50

Akaka	Feingold	Mikulski
Baucus	Feinstein	Mitchell
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boren	Graham	Nunn
Boxer	Harkin	Pell
Bradley	Heflin	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Daschle	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Mathews	Wofford
Exon	Metzenbaum	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment would reduce the savings attributable to the Finance Committee below the level they were directed to achieve and would therefore violate section 310(d) of the Budget Act.

The point of order is sustained, and the amendment falls.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following be the sequence of first-degree amendments under the following time limitations:

An amendment by Senators BRYAN and KERRY of Massachusetts, regarding mohair, 7 minutes equally divided; an amendment by Senators DOMENICI and NUNN regarding discretionary caps, 8 minutes equally divided; an amendment by Senator BRADLEY regarding the line-item veto, 10 minutes equally divided; an amendment by Senator MCCONNELL to strike the Presidential checkoff, 5 minutes equally divided; an amendment by Senator GRAHAM, of Florida, regarding Medicare, 10 minutes equally divided; an amendment by Senator DANFORTH regarding a point of order, 10 minutes equally divided; an amendment by Senator BRYAN regarding section 936, 7 minutes equally divided; that following the disposition of the Bryan amendment, Senator REID be recognized to offer amendments and to speak for 2 minutes and then to withdraw the amendments; that the amendments be debated and laid aside until

all have been debated, after which the Senate begin voting, back to back, on or in relation to each amendment in the order in which they were offered, and that no other amendments be in order prior to their disposition.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object. Does this limit second degrees on all of the amendments? I did not understand that.

Mr. MITCHELL. I am advised that it does. That is the intention.

Mr. DOMENICI. We would agree at this particular moment that we could accept most of this, but I need a few minutes on the second-degree part. We have to leave the second-degree part open while I talk to the Senators.

Mr. MITCHELL. Mr. President, I will withhold the request until the Senator has an opportunity to do that.

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

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

AMENDMENT NO. 539

(Purpose: To extend the authority to collect certain fees)

AMENDMENT NO. 540

(Purpose: To restore 2.5 cents of the Highway Trust Fund financing rate to the Aquatic Resources Trust Fund)

Mr. SASSER. Mr. President, I send to the desk an amendment by Senators WOFFORD and SPECTER and also an amendment by Senators BREAUX and WALLOP and I ask unanimous consent that both be deemed agreed to and that the motions to reconsider the vote by which they were agreed to be laid upon the table, all this action occurring en bloc.

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

So, the amendment (No. 539) was agreed to, as follows:

On page 149, between lines 7 and 8, insert the following:

SEC. 5002A. EXTENSION OF AUTHORITY TO COLLECT FEE.

The third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98-63 (97 Stat. 329) is amended by striking paragraph (3).

So, the amendment (No. 540) was agreed to, as follows:

Section 9503(b)(6) of the Internal Revenue Code of 1986, as added by section 8244(b)(6), is amended to read as follows:

"(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

"(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

"(i) the tax imposed by section 4081 on diesel fuel used in any train, and

"(ii) so much of the nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)) as are attributable to 2.5 cents of the Highway Trust Fund financing rate.

"(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the amount paid from the Highway Trust Fund under subsection (c)(6), the Highway Trust Fund financing rate shall be treated as being 2.5 cents less than the otherwise applicable rate."

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

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

The motion to lay on the table was agreed to.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, there is a unanimous-consent request pending that has been previously propounded.

Mr. DOMENICI. We have no objection to the majority leader's unanimous-consent request.

Mr. EXON. Mr. President, reserving the right to object, may I make inquiry? I do not believe I heard the majority leader say there would be 10-minute votes after the first. Was that agreed to, 10-minute votes after the first?

Mr. SASSER. I ask unanimous consent that the unanimous-consent request be altered or amended by saying that the first vote be 15 minutes with each succeeding vote 10 minutes in duration.

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

Is there any objection to the unanimous-consent request, as amended, of the majority leader?

Hearing none, without objection, it is so ordered.

Mr. SASSER. I thank the Chair.

Mr. President, I see the distinguished Senator from Connecticut [Mr. LIEBERMAN] seeking recognition. I yield to him now and ask him to be very brief.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 541

(Purpose: Expressing the sense of the Senate that the Congress should adopt Federal enterprise zone legislation)

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. DORGAN, Mr. MACK, and Mr. COATS, proposes an amendment numbered 541.

Mr. LIEBERMAN. 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:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) FINDINGS.—The Senate finds that—

(1) The crisis of poverty, high unemployment, out-migration, and job loss in America's inner-cities, rural areas and Indian reservations demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many U.S. inner cities and rural areas. This, in turn, has led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small and medium-sized businesses, which create the majority of new jobs in the U.S. economy, to locate and invest in poor areas is one of the keys to revitalizing urban and rural America;

(4) Enterprise Zones will help attract businesses to build and grow in poor areas; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) The decline of small industry in rural areas has caused thousands of people to leave such areas, thus hastening the decay of rural communities and leaving the elderly in particular stranded without the help of family and younger neighbors;

(6) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful, having generated capital investments in poor neighborhoods in excess of $28 billion and having created more that 258,000 jobs; and

(7) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

(b) DEFINITIONS.—

(1) The term "enterprise zone" means any economically distressed urban area, rural area, or Indian reservation designated by the Secretaries of Housing and Urban Development, Agriculture or Interior for special regulatory and tax treatment, and for the targeting of Federal, state, and local programs for the purposes of providing economic revitalization, economic development, and job creation;

(2) The term "empowerment zone" means any designated enterprise zone which is designated to receive the full package of regulatory and tax relief and targeted programs as provided for by the enterprise zone program; and

(3) The term "enterprise community" means any area eligible for enterprise zone designation and ultimately designated by the Secretaries of Housing and Urban Development, Agriculture, or the Interior but does

not receive the full package regulatory relief, tax relief and targeted programs.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that—

(1) enterprise zones are a vital, proven tool for inner-city, rural, and Indian reservation revitalization and that Congress should adopt Federal enterprise zone legislation;

(2) to insure cooperation and coordination among Federal agencies and to provide targeted regulatory relief, such legislation shall include the establishment of an Enterprise Board to develop the selection criteria and to waive any provision of Federal law or regulation administered by the Secretary of the Departments of Housing and Urban Development, Agriculture, Health and Human Services, Labor, or Education, if the Board determines the waiver is necessary for achievement of the comprehensive strategic plan of an enterprise zone;

(3) to adequately and substantially address the crisis in urban and rural America, such legislation shall include at least 75 empowerment zones; and

(4) each empowerment zone shall include each of the following provisions:

(A) Enterprise Grants for implementing local coordinated strategic plans such as:

(1) creating new, coordinated delivery systems for relevant government services;

(2) creating community lending or microenterprise loan funds;

(3) providing technical assistance, entrepreneurial support, workforce skill programs, and job-search and job matching networks in the labor market;

(4) leveraging private matching support; and

(5) matching funds for community development corporations;

(B) Community Policing Grants to increase police presence, expand cooperative efforts between law enforcement and the community, and to assure public safety;

(C) Innovative programs and zone priority investments of existing Federal agency funds targeted toward empowerment zones;

(D) Tax incentives aimed at reducing both capital and labor costs associated with operation of a business in an empowerment zone;

(E) Tax incentives aimed at attracting equity investments, including venture and seed capital, in start-up or small enterprise zone businesses; and

(F) Tax incentives to encourage the hiring and training of economically disadvantaged individuals;

(5) Because the mitigation of jobs from rural areas has caused many families to migrate too, the indications of distress are different for rural than for urban areas. Specifically, in determining whether a rural area is eligible for an enterprise zone, the factors shall include job loss and out-migration, rather than just the poverty rate, which is an appropriate factor for urban areas.

Mr. LIEBERMAN. Mr. President, after more than a decade of debate, I rise today to offer a sense of the Senate resolution urging the Congress to finally adopt Federal enterprise zone legislation. I offer this amendment after more than 12 years of neglect of our urban centers; after last year's riots in Los Angeles that brought urban policy to the top of the congressional agenda; after three successful times passing the Senate—once in 1982, again in 1984, and most recently in 1992; and after enterprise zones were most recently dropped from the Senate's version of the budget reconciliation package. This provision was dropped despite the fact that a $5.1 billion program was included in the House bill, and that President Clinton has made enactment of this program a priority.

Mr. President, if there is any one point on which we can all agree, it is that the desperate conditions which exist in too many of America's inner cities—the crime, the poverty, the drugs, the unemployment, and the homelessness—have gone on for far too long.

I believe that enterprise zones offer us an opportunity to break this cycle of decay by directly countering the one most important cause of urban decline—namely the reduction of business activity, and therefore, investment and jobs.

We have now had more than 10 years' worth of experience with enterprise zones and we know they work. At the State level, 36 States have adopted enterprise zone programs. I am proud to say that the State of Connecticut led the Nation in establishing enterprise zones in 1982, offering a wide range of State and local incentives, as well as administrative support to help develop distressed urban areas.

In total, according to the 36 State economic development offices, enterprise zones have created more than 250,000 jobs and have attracted more than $28 billion in capital investments. This has all been obtained without Federal incentives, which are critical to the maximum possible enterprise zone success.

The State experience provides evidence that, if properly designed, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

That is why—among many others—enterprise zones have been endorsed by the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors. These organizations have called for the adoption of enterprise zones across the country.

But, Mr. President, this amendment not only urges the Senate, in essence, to yield to the House in conference and to finally pass an enterprise zone program, it sets some fundamental benchmarks on how this program should work. I want to go through some of my concerns with both the House and the administration's proposal to urge the conferees on the reconciliation bill to make some modifications in conference.

NUMBER OF ZONES

To begin, Mr. President, the administration's proposal calls for only 10 urban and rural communities around the country to be designated as enterprise—empowerment—zones. Of the 10 zones, 6 will be designated in urban areas; 3 will be designated in rural areas; and 1 will be designated on an Indian reservation.

While the President's proposal does purport to create 100 enterprise communities and 10 empowerment zones, the 100 cannot really be characterized as enterprise zones and do not get a package of incentives that would make enterprise zones work.

This is not an adequate response to the crisis in our urban areas and rural communities. In fact, it guarantees that the vast majority of distressed areas in this Nation will have no chance of being designated an enterprise zone.

Under the administration's proposal my State, which has three of the poorest cities in the country, and has had a number of successful and proven enterprise zones for a decade, will have no chance of getting even one real enterprise zone. We would have to compete among many hundreds of applications. Other states have the same problem. In fact there are hundreds of metropolitan cities which are in need of our assistance—only 10 of which will receive enterprise zone designation under the administration proposal. This amendment says that we create a minimum of 75 full enterprise zones with a full array of incentives and programs.

Second, Mr. President, the administration proposal will provide these 10 enterprise zones with approximately $3.2 billion worth of incentives over the next 5 years. Assuming equal distribution of the incentives, this proposal provides 320 million dollars' worth of tax benefits to each enterprise zone. Frankly this is too rich a subsidy per zone. Enterprise zones are not going to attract major existing employers, they are going to attract startup and small businesses. The $320 million per zone simply can't be utilized by those kinds of firms. In fact, it is highly unlikely, based on the experience of the State programs, that anywhere near this level of tax subsidy is necessary. The key to the enterprise program is the ability to use limited Federal tax dollars to leverage private capital. You do not need $320 million per zone to achieve this. A more carefully targeted amount spread to a larger number of zones is going to achieve a better result.

The administration has suggested that their program is designed with this level of generosity—and with this limited number of zones—in order to test the enterprise zone concept. But,

as I have said and still believe, enterprise zones have already been thoroughly tested in 36 States and in more than 2,200 communities since 1982. And, they have been successful. We know what works and we know what doesn't. There have been 56—56—enterprise zone bills introduced in Congress over the last 12 years. There have been dozens upon dozens of hearings in both the House and Senate. The Senate has passed this program three times—once in 1982, again in 1984, and again just last year under the leadership of now-Secretary Bentsen.

According to the American Association of Enterprise Zones, in a letter sent to President Bush last year, "Never in the history of domestic policymaking have literally hundreds of cities demonstrated the principles of a Federal program before Congress has authorized its full operation. We are confident that we understand the way enterprise zones perform; thus we can confidently urge Congress to implement the Federal policy in more than a handful of communities."

It is important to note that enterprise zones do not represent a radical departure from traditional, long practiced, and accepted economic development activities. From the State and local perspective, the notion of using incentives to attract business, development, investment, and jobs is not new. Democrats and Republicans—Liberals and Conservatives—have all embraced this concept. Enterprise zones represent a slightly different spin on traditional State economic development activities by targeting incentives specifically to smaller economically distressed areas.

Mr. President, I think it is also important to note the precedent problem the administration is setting with this proposal. When we eventually come to the determination that this program is indeed successful—as we surely will—it will cost us enormous sums of money to expand the program to all eligible areas without creating serious inequities. For example, under the administration proposal it will cost us an additional $30 billion to expand this program to an additional hundred communities among the thousands that probably need it.

INCENTIVES

Finally, Mr. President, let me address the issue of incentives. In my opinion, the objective of the enterprise zone program is to use tax incentives—and other forms of public policy—to direct investment and employment opportunities to distressed urban and rural areas that would otherwise not occur. The increased investment and employment, spurred by the package of incentives should promote the revitalization, over time, of these distressed areas. Therefore in order for the program to achieve its desired results, the package of incentives, including State and local incentives, must be of a strong enough and practical enough nature to attract the necessary business and investment activity. The package of incentives must also reduce capital as well as labor costs to a sufficient level that a firm would be willing to forgo other factors that impact location decisions including access to markets, quality infrastructure, efficient transportation, a skilled labor force, quality of life, and security.

I cannot stress enough the importance of capital incentives. They must be a component of any program and should be targeted toward small businesses. They should encourage equity over debt. And, they should be focused on seed capital and cash-flow—two of the most common barriers to small business creation. Labor incentives alone will not be sufficient to attract business investment. While there are some capital incentives in the administration's plan—aimed largely at the acquisition of tangible assets—they do not adequately address the problems of access to capital.

These capital incentives are also important because they allow the Government to leverage limited resources and tap the vast resources of private investment capital, not to mention the benefit of attracting this capital into some of America's poorest communities. This provides a multiplier effect for Federal tax dollars and pays dividends to the community in terms of additional sources of tax revenue. This is in stark contrast to direct public spending programs which rarely pay dividends beyond their intended purpose.

On the labor incentive side, if the objective is to encourage employers to hire new employees from within zones, there appears to be limited utility to the key element in the proposal. Unless the employer credit is designed to be refundable, few small firms have the level of tax liability required in the administration proposal to take advantage of a $5,000 tax credit per employee.

CONCLUSION

Mr. President, it is time to do something substantial on a national scale about urban decay and chronic unemployment. Unemployment and decay that not only encompasses whole sections of every one of our inner cities and so many of our rural areas but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, and the places where they live are in need of our help and they all deserve our help.

Mr. President, very briefly, one of the incentives for investment that I regret was left out of the bill before us—and it is in the House bill—is a system of enterprise and empowerment zones to use the power of tax incentives to bring private capital into the poorest urban and rural areas to create growth and jobs.

This sense-of-the-Senate amendment simply puts the Senate on record in support of that concept and hoping it will be adopted by the conference committee. It also specifically asks that the number of zones be increased from 10 to 75 to cover needy areas of our country, and there be emphasis on capital cost incentives to bring capital into our poor areas.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 541) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, under the unanimous-consent request previously ordered, I will move now to a Bryan-Kerry amendment on which 7 minutes has been authorized.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 543

(Purpose: To eliminate the price support program for wool and mohair)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. KERRY, Mr. REID and Mr. FEINGOLD proposes an amendment numbered 543.

Mr. BRYAN. 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:

Beginning on page 32, strike line 19 and all that follows through page 34, line 10, and insert the following new section:

SEC. 1111. ELIMINATION OF WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—The National Wool Act of 1954 (7 U.S.C. 1781 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(a)) is amended——

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) TRANSITION PROVISIONS.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply beginning with the marketing year beginning January 1, 1994.

Mr. BRYAN. I yield myself 1½ minutes.

Mr. President, if there is a test of our ability, our willingness, and our determination to meaningfully reduce the

deficit, it is with this amendment that I am joined in by my distinguished colleagues, Senators JOHN KERRY and HARRY REID.

The wool and mohair program had its genesis back in 1954 when wool was a natural strategic reserve. There was justification.

It is a classic example of a program that continues year after year, decade after decade, without justification. This bill will cost the American taxpayers about $760 billion over a 5-year period.

The amendment which my colleagues and I urge adoption this evening will save $675 million, all of which goes to deficit reduction. It is absolutely an outrage. Individual producers can receive as much as $300,000. Less than 1 percent of producers receive 54 percent of all payments.

If we cannot eliminate this program here, there is no national strategic impact, it is simply a subsidy and a bailout—and to those who say, look, Senators are always quite willing to impose limitations on others but not themselves, there are Nevada ranchers that are affected by this.

Mr. President, I am proposing an amendment with my colleagues, Senator JOHN KERRY and Senator HARRY REID, to the Omnibus Reconciliation bill. The bill we are debating contains $500 billion in deficit reduction—through a combination of spending cuts and additional revenues. Our deficit is a stranglehold on government—and a drain on our economy. In order to reduce the deficit, we MUST reduce spending. We MUST evaluate where our dollars can no longer afford to go. We MUST ask those who can, to pay their fair share to stop the red ink and stop saddling our children with greater debt.

Mr. President, deficit reduction is a burden to be shared by all. Indeed, this bill asks many with little to give, to help in this effort. The bill asks Social Security recipients—individuals with incomes of $32,000 and couples with incomes of $40,000—to pay an additional 30 percent tax on their Social Security benefits. No one must be reminded that a $40,000 income for a couple is not wealthy. The bill asks all individuals to pay an additional 4.3 cents per gallon for gasoline, this increase takes more out of the budget of a family of four with $30,000 income, than it does for the millionaire.

When President Clinton addressed the Joint Session of Congress and the Nation in February, he presented an economic plan that included $5.86 billion in spending cuts for agriculture. However, when we passed the Budget Resolution in March, the cuts in agriculture were reduced to $3.2 billion. While I voted for the Budget Resolution, I believe that more spending can be cut. Agriculture is one of those areas. For example, the reconciliation bill exempts agriculture from the transportation fuels tax. The economy in Nevada is tourism-centered and dependent on the airlines. America's airlines, so crucial to our economy, are in terrible condition, yet they are not exempt from the transportation fuels tax. Deficit reduction must be shared by all.

Mr. President, agriculture can take a greater share in the deficit reduction burden. These tight budget times necessitate that we must reevaluate who receives government funds and what programs are no longer required.

These amendments, if adopted, would save the U.S. Treasury about $1 billion over 5 years. This additional deficit reduction is just the beginning of rethinking our Government spending priorities. I intend to offer and support additional amendments during the appropriations process to stop funding the space station, the super conducting super collider, and the market promotion program. Tight budget times require bold measures and difficult choices—we can abide by extravagance no longer and must terminate antiquated expenditures.

In 1954, a program was authorized to encourage the production of wool, then considered a strategic material. Wool is no longer a strategic material, and the program must be reconsidered. When President Clinton sent his budget to Capitol Hill, he proposed to limit payments on wool and mohair to $50,000. This proposal would have saved the taxpayers nearly $270 million over 5 years. The Senate Agriculture Committee revised the President's proposal to reduce the payment limitation for wool and mohair producers from $125,000 in 1994, to $100,000 in 1995, to $75,000 in 1996, and to $50,000 in 1997. There is more that can be done with this program. The 1993 payment limitation is currently $150,000 each for both wool production and mohair production to a maximum of $300,000 per producer. In 1991, less than 1 percent of producers received 54 percent of the payment. Producers on average receive from the Federal Government almost 210 percent of the market value of their production. Over the years, the cost of this program has continued to rise. According to a report in the New York Times in February 1993:

> Market prices have collapsed, partly because mohair went out of fashion in the 1980's * * * Yet the Agriculture Department continues to guarantee mohair producers a fixed price based on a complex formula of average farm costs in recent years and in the late 1950s. The formula, which is unique in American agriculture, locks in profits by virtually insuring that prices rise as fast as costs.

Earlier this year, I cosponsored a bill introduced by Senator FEINGOLD to eliminate the price support program for wool and mohair. This amendment would accomplish this purpose. This would reduce Federal spending an additional $640 million. This program has outlived its usefulness, and should be abolished.

The wool and mohair program, is outdated. Supplements for the market price are no longer needed, and domestic production continues to be protected by the imposition of a tariff on foreign wool.

Mr. President, I urge my colleagues to support the amendment.

I yield now to the Senator from Massachusetts 1 minute.

Mr. BROWN. Mr. President, will the Senator yield?

Mr. BRYAN. Ordinarily, I would be happy to yield, but because I have only 2½ minutes I decline the invitation of my colleague and yield 1½ minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I would just like to share with my colleagues quickly—and that is all I can do—an article from the Washington Post dated April 6 of this year.

> In a place buffeted by the whims of nature, the $180 million-a-year program illustrates an axiom of the Federal budget that holds true even in a year when concern about the deficit is suddenly fashionable: Once you're in the budget, you're in, and almost nothing can force you out.

The subsidy we are talking about has been here for 39 years, even though the General Accounting Office in 1982 said that it serves no useful purpose. And in 1991 again it said it serves no useful purpose.

So, Mr. President, I would join with my colleagues in saying, "Look, if we cannot cut $675 million from a subsidy where we are paying 4 times the world market price for, something that has no strategic value, which was the original reason it was put in, then we are going to have a hard time being serious about anything.

A lot of folks here talk about cutting, not doing this with taxes. Here is the opportunity—$675 million over 5 years of deficit reduction.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I yield to the Senator from Nevada 1 minute of the remaining time.

The PRESIDING OFFICER. The Senator has 29 seconds.

Mr. REID. This amendment would eliminate welfare at its worst. There may have at one time been a reason for this subsidy, but that is even debatable. This will save almost $750 million during the term of this bill. If we are serious about reducing the yearly deficit, there would be no better way to do it than to eliminate this wasteful subsidy.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. We have 3½ minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield 1 minute to the Senator from Colorado.

Mr. BROWN. Mr. President, I want to say to my good friend from Nevada, "I know he is sincere in his efforts to work on this problem".

There are a couple of concerns I have that may not have come up and he did not spell them out. The funds for this assistance, this wool payment, do not come from the Treasury. They come from an import duty tariff on the imported wool. It is an effort to level the playing field on wool.

I must say, as someone from a State that produces wool and has been associated with the industry, I favor the President's proposal. The President's proposal dramatically cuts the program's payments under the wool program in this bill already. I favored that.

But to eliminate the program without insisting on concessions from our competitors is unilateral disarmament. The way to eliminate this program, if you want to eliminate it, is to trade it off for trade concessions from our trading partners, not eliminate it unilaterally. This is nothing more than unilateral disarmament.

Should we eliminate programs like this? Absolutely. But we ought to eliminate them in conjunction with eliminating the kinds of programs our exporters run into overseas. It would be a tragic mistake to do this without getting concessions from our competitors.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield the remaining time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think it is a very interesting paradox that we have $10 billion worth of farm programs, with virtually none of those farm programs self-funding, that we are eliminating a payment that is not paid for by the taxpayer but, in fact, has a dedicated import tariff.

Now, if we did not have an agreement to limit second-degree amendments, I would offer an amendment to give our colleagues an opportunity to vote to eliminate real subsidies.

Mr. KERRY. Will the Senator yield for a question?

Mr. GRAMM. I do not yield, because I have a very short period of time.

I would simply like to say this. If our colleagues had offered an amendment to eliminate the tariff and eliminate the spending, you would at least have a logical amendment.

But what we have now is a selective fee that is paid to cover this payment, basically, to wool producers, west of the Mississippi. This is a very tiny program, but the important thing is it does not contribute one nickel to the deficit. It is a program that is funded by a fee on foreign wool. You cannot argue that this program raises the deficit.

Let me yield the remainder of my time to our colleague from South Dakota.

Mr. PRESSLER. Mr. President, I strongly oppose the amendment by the Senator from Nevada. I would like to very quickly say that I have voted to reduce farm subsidies on a 5-year basis twice in the farm bill. I am a free-trader, for the Farm Bureau's approach of trade and am concerned about the GATT trade agreement going forward.

But the Wool and Mohair Price Support Program is not costing the taxpayers money. Indeed, it is not like the other farm programs. Let me tell you the facts about this program.

The Wool and Mohair Price Support Program is vital to the survival of 4,000 South Dakota sheep growers. South Dakota is the sixth largest sheep-producing State in the Nation. The Wool and Mohair Price Support Program assures a vital domestic sheep industry in South Dakota and all other States. The program provides supplemental income to farm and ranch families at no net cost to taxpayers. It enables these families to compete in the international market place on a level playing field. More important, the program helps support many rural communities in South Dakota that exist on income generated by the sheep industry. If this amendment becomes law, several things would happen.

First, farmers and ranchers would have lower income. Second, there would be reduced supplies of wool. Third, consumers would pay more for wool products. Finally, the United States would have to rely on foreign suppliers for wool. These are four effects that we simply cannot live with.

Nationwide, 70,000 wool producers receive program payments of various amounts. United States sheep ranches range from 15 to 15,000 head. The sheep industry has done its parts to help reduce the deficit and includes payment caps. Large payments are not the norm. The program supports the overall infrastructure of the sheep industry and related rural communities.

Mr. President, the benefits of the Wool and Mohair Price Support Program are many. In the West, sheep are raised on land that would not otherwise be productive. The program supports the people who work on that land, supports the surrounding communities and is important for rural development. I ask my colleagues to defeat this amendment.

I thank my friend from New Mexico.

Mr. SIMPSON. Mr. President, Senator BRYAN's proposal to eliminate the wool program is shortsighted at best. The Wool Act works. It does not rely on the U.S. Treasury. It costs taxpayers nothing. It provides a reasonable economic stimulus for rural America. It stabilizes rural economies.

This program does not add to the deficit. The tariffs supporting the Wool Act actually put money into the U.S. Treasury—more than $4 billion during the life of the program—which has been used to fund a full array of social and economic programs. Payments to growers of wool are derived from tariffs on foreign wool and wool products. Growers receive an average of 30 percent of the wool tariffs which flow into the United States. The remainder goes back into the tax coffers to bolster Federal revenues. This is not like other enormously expensive crop subsidy programs.

The Wool Act is unique because it has a dedicated source of funding through these tariffs.

Products grown and processed in the United States help balance the trade deficit. The sheep industry accounts for 350,000 jobs, many of the jobs for minorities in areas where other employment options are limited. The sheep industry puts $6.7 billion a year into the GNP from the farm through retail.

I urge the rejection of the Bryan amendment.

TERMINATION OF WOOL AND MOHAIR PROGRAM

Mr. FEINGOLD. Mr. President, I am pleased to support the Senator from Nevada [Mr. BRYAN] and the Senator from Massachusetts [Mr. KERRY] in moving to terminate the Wool and Mohair Support Program. On March 2, 1993, I introduced legislation, S. 477, a bill to eliminate these programs. According to estimates provided by the Congressional Budget Office in its 1993 report on options for reducing the deficit, elimination of this program would result in savings of some $760 million over 5 years. Although President Clinton included spending reductions in this program in his budget proposal by limiting support payments to $50,000 per person, there are strong arguments for total termination of the program. As a Member of the Senate Agriculture Committee, I pushed for deeper cuts in this program, and was pleased that the committee added a support payment freeze at the fiscal year 1993 level. Although I recognize that it will be very difficult to terminate this program, I hope that the vote for this amendment will send a strong signal to the conference committee that this program should be substantially reduced, if not terminated.

This program was initiated in 1954 when wool was thought to be a strategic material. Mohair never was. The program has continued long after the original need. Moreover, the benefits of the program are heavily concentrated on a handful of producers. In 1991, less than 1 percent of the producers received 54 percent of the payments while 30 percent of all producers received payments of $100 or less. This clearly represents a program which benefits a

very few people. In a time of deficit reduction, it is simply inappropriate to continue this subsidy.

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

Mr. DOMENICI. Has all time been yielded back?

The PRESIDING OFFICER. All time has expired.

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

The yeas and nays were ordered.

Mr. DOMENICI. I want to make sure that the other side understands that when it comes time to vote——

Mr. BRYAN. I thought all time had expired. I am happy to give my distinguished friend additional time, if I have additional time.

Mr. DOMENICI. I am not going to debate anything. I just wanted to make sure you know that I am going to raise a point of order when it comes up for a vote so you will be ready to make your motion to waive. I do not want you to think I am catching you by surprise. I apologize. I have been told by the Parliamentarian that it is subject to a point of order.

Mr. SASSER. 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. SASSER. 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. SASSER. Mr. President, the next amendment to be considered under the unanimous-consent agreement is an amendment to be offered by Senators DOMENICI and NUNN. There will be 8 minutes on that amendment, evenly divided.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I believe—I do not know if I am wrong or not—but I suggest we have to set this amendment aside.

Mr. SASSER. No. I would advise my friend from Massachusetts, under the unanimous-consent agreement we will, after all time has expired on debate—which it has on your amendment——

Mr. KERRY. Proceed immediately to the next one.

Mr. SASSER. We will proceed immediately to the next amendment and then dispose of all amendments.

Mr. KERRY. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have 5 minutes. I want to yield 2½ of those minutes to my colleague, Senator NUNN, and 2½ to myself.

I yield myself 1 minute, then yield to the Senator, and I will wrap up.

AMENDMENT NO. 544

(Purpose: To extend the discretionary caps on defense, international, and domestic spending through fiscal year 1995)

Mr. DOMENICI. 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 New Mexico [Mr. DOMENICI], for himself, and Mr. NUNN, proposes an amendment numbered 544.

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:

At the appropriate place, insert the following:

SEC. . DISCRETIONARY CAP EXTENSION.

(a) DISCRETIONARY SPENDING.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) with respect to fiscal year 1994—

"(i) for the defense category: $264,051,000,000 in new budget authority and $279,262,000,000 in outlays;

"(ii) for the international category: $21,721,000,000 in new budget authority and $21,660,000,000 in outlays; and

"(iii) for the domestic category: $215,192,000,000 in new budget authority and $237,835,000,000 in outlays;

"(E) with respect to fiscal year 1995—

"(i) for the defense category: $262,624,000,000 in new budget authority and $272,744,000,000 in outlays;

"(ii) for the international category: $21,315,000,000 in new budget authority and $21,416,000,000 in outlays; and

"(iii) for the domestic category: $222,348,000,000 in new budget authority and $247,112,000,000 in outlays.".

(b) DEFINITIONS.—Paragraph (4) of section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(4) The term 'category' means for fiscal years 1991 through 1995 any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the 3 categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.".

Mr. DOMENICI. Mr. President, this amendment is an amendment that intends to give the Defense Department of the United States and all of our Military Establishment and our Joint Chiefs 2 years of assurance that they will not be cut more than the President has submitted in his budget. So what it does, for the years 1994 and 1995——

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

The PRESIDING OFFICER. The Senate will come to order.

The Senator will proceed.

Mr. DOMENICI. What this amendment does for the years 1994 and 1995, it establishes three caps in the discretionary accounts of our Government. They are identical to those in the budget resolution. Defense has its cap and its wall. If you want to cut more, you put it on the deficit, you do not spend it somewhere else.

The same for foreign aid and the same for all the rest of the domestic programs. It is time we have some common sense about defense and give them 2 years of assurance that these dramatic reductions are not going to be further eaten away in the appropriations process.

I yield to my friend from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I will not even take 2½ minutes.

I just strongly support the Senator from New Mexico's amendment and his explanation. I think it is important for everyone to realize that this amendment will carry out the President's defense budget. It will say we are not going to cut the President's defense budget and put it in other programs.

If anybody wants to cut defense, they will have a right to cut defense, but it will go to the deficit. It will not be poured over into other programs. That is what we call the wall.

So this does not preclude cuts in defense. It does preclude cuts in defense to be poured over into other areas. We simply cannot use the defense budget as a bank. That is what happens around here over and over again.

This amendment is entirely consistent with President Clinton's defense budget. As a matter of fact, it reinforces it and protects it. We already have seen a serious erosion in the President's own defense numbers since we passed the budget resolution. We are battling right now on some technical matters to determine whether that reduction is going to be in the neighborhood of $4 to $6 billion in outlays, or $1 to $2 billion in outlays. That converts to very large budget cuts below the President's number.

So this is absolutely essential if we are going to avoid a serious readiness problem later on this year and certainly next year.

I strongly support the amendment sponsored by the Senator from New Mexico and myself.

I ask unanimous consent the Senator from Virginia [Mr. ROBB] be added as a cosponsor.

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

Mr. President, to reiterate, this amendment would reestablish the separate caps on defense, international and domestic discretionary spending that existed from fiscal year 1991 to fiscal year 1993. These caps are completely consistent with the funding levels we adopted in the budget resolution earlier this year. This amendment would not change the spending priorities we

have already agreed to. In effect, this amendment simply reinstates the so-called firewall between defense and nondefense discretionary spending in the Federal budget for fiscal years 1994 and 1995.

Mr. President, I know that many of my colleagues objected to the idea of a firewall between defense and nondefense discretionary spending in the original 1990 budget summit agreement. I wish we did not need this kind of a barrier, but we do.

The administration proposed deeper cuts than I would have preferred in the defense budget this spring. I discussed this at length with both the President and the Vice President, and they assured me that they were committed to holding the line for a strong defense. I still believe they are personally committed to a strong defense.

This spring I gave a speech on the defense budget and offered an amendment expressing the sense of the Senate that the defense budget should not be cut lower than the level specified in the budget resolution. This amendment was adopted by a 56 to 43 margin.

Unfortunately, unless we take steps to reverse course, the fiscal year 1994 defense budget is increasingly likely to be cut below the level we all agreed to in the budget resolution. But this is only evidence of a more important problem. It is increasingly clear that the combination of forces in the administration and in the Congress—because of the fiscal squeeze and because of the strong desire to fund other programs—continues to erode the defense budget substantially below President Clinton's proposal. The defense budget is not being attacked directly. Instead, it is being mugged quietly in the dark alleys of the legislative process.

I believe there is no choice other than to reinstate the firewalls that have protected the defense budget in recent years.

DEFENSE IS ONLY PART OF BUDGET CARRYING ITS FAIR SHARE OF BUDGET SUMMIT CUTS

Mr. President, again let me state, as I did this spring, I believe that defense must contribute its fair share to deficit reduction, consistent with the threats that we now face in the world. But for the last several years, defense has been the only part of the budget where we have achieved any significant deficit reduction.

The budget summit agreement in 1990 was supposed to produce $500 billion in deficit reductions by 1995. This agreement not only failed to reduce the deficit by $500 billion, but the deficit is expected to actually increase by $500 billion during this period, a total shortfall of $1 trillion. This was in major part caused by the economic recession.

Despite this, the defense budget was cut just as planned in the 1990 budget summit agreement. All the defense cuts were made as planned, but the rest of the savings have not materialized.

The discretionary part of the budget—because it includes both defense and nondefense spending—has delivered its fair share of the savings. None of the other categories of the 1990 budget summit—entitlements, interest payments, or revenues—have met their share of the savings required by the budget summit. In part, but only in part, this is because of the recession. It is clear, Mr. President, that the discretionary category is meeting its share only because defense spending has been cut more than originally planned.

Defense continues to do more than its share of the deficit reduction in the Clinton budget. The defense budget is contributing over two-thirds of the total real spending cuts in the President's plan, even though defense spending is less than 20 percent of the Federal budget.

Now people will say there is a lot more than defense cuts in this budget plan. They will say entitlements are being cut, and taxes are being increased. That is all true, Mr. President. But that was also true of the 1990 budget summit agreement. The problem is in making sure that the entitlement savings actually materialize.

I know there are a number of Senators today who are strongly opposed to the reductions in entitlement spending contained in this reconciliation bill. But I would point out that these largely are not budget cuts at all, but "reductions in the increases." Most parts of the budget will not grow as much as their proponents want them to grow, and they call that a cut. But defense is different. Here the cuts are real and deep.

Even then, I am prepared to accept reductions in the defense budget. Whatever the Congress decides should be spent on defense in the budget resolution should be followed by the Congress. But that has not happened. As I pointed out this spring, what is happening is not a frontal attack, but rather a quiet back-alley mugging. What has happened this year illustrates this point.

OUTLAY CRISIS

Last week the Armed Services Committee held a hearing with the Deputy Secretary of Defense, Dr. William Perry. Dr. Perry pointed out that there are a number of technical scoring problems that could cause the Congress to make deep program reductions in the fiscal year 1994 defense budget.

Dr. Perry pointed out that the biggest problem is caused by the so-called 602(d) allocation process, where the Appropriations Committees take the funding assigned to them by the budget resolution and allocate it to the various subcommittees. The House decided to cut the defense budget by $2.5 billion, and the Senate Appropriations Committee decided to cut an additional $300 million, for a total of $2.8 billion. These reductions are in outlays, which means that far more has to be cut in budget authority in 1994—from three to four times as much—in order to generate these outlay savings.

TWO FACTORS CONTRIBUTING TO OUTLAY CUTS

Two factors primarily contributed to the cuts imposed in the 602(b) process. The first is the Congressional Budget Office reestimate of the defense budget. The second is the administration's overall budget submission which exceeded the spending caps in the first place. I will discuss each one briefly.

CBO REESTIMATE OF DEFENSE BUDGET

As required by law, the Congressional Budget Office estimated the administration's fiscal year 1994 budget proposals. CBO concluded that the defense budget had nearly $1.6 billion more in outlays than estimated by the administration. For example, without any explanation of its analytic basis, CBO decided that the defense budget would not generate the $3.1 billion cash balances in the Defense Business Operations Fund anticipated in the fiscal year 1994 budget, and instead decided DOD would generate only $1.5 billion. The DOD budget projected receipts of $3.1 billion in cash, all of which would be transferred to the operations and maintenance accounts. Even though CBO assumed that DOD would not generate more than $1.5 billion, CBO still assumed that $3.1 billion would be transferred to the services' operations and maintenance accounts. This is clearly a mistake, yet if we don't correct this mistake, it will force us to slash critical defense programs.

In another instance, CBO reversed its original position on scoring the outlay savings from the administration's decision to freeze Federal employee pay in fiscal year 1994, and refused to let DOD get credit for all of the outlay savings associated with eliminating the pay raise. CBO originally worked out a method for scoring those savings with DOD and with OMB, and later reversed itself and disallowed nearly $500 million in outlays.

Mr. President, there are scorekeeping disconnects like this every year. In previous years, CBO has caught the administration trying to play a fast game with outlays. We need to have CBO provide an honest reassessment of the budget. The Budget Committees have final authority to resolve these technical disputes. But the Budget Committees have refused to consider these scorekeeping problems this year. And if things don't change, $4 to $6 billion in defense programs will have to be eliminated to satisfy a narrow technical beancounters dispute.

Thus far, the administration has not made a strong case to CBO to get this resolved. Secretary Aspin and Deputy Secretary Perry have been ringing the alarm bells, but up to this point the firetrucks haven't left the White House.

ADMINISTRATION DISCRETIONARY BUDGET EXCEEDED CEILING

The second factor causing the Appropriations Committee to cut the defense budget outlays originated in the administration's own budget proposal. As I pointed out this spring, the administration's budget exceeded the allowable spending caps in the discretionary accounts. All of the excess was in the nondefense area. All told, the administration submitted a budget that exceeded the caps by $5.7 billion.

Congress cut back on the discretionary accounts and lowered this excess. But when all was said and done, the defense budget had to be reduced by over $700 million in outlays just to make room for the excess spending in the nondefense area.

Mr. President, this excess in the nondefense accounts is not just a fiscal year 1994 problem. I am told that nondefense discretionary spending in the administration's fiscal year 1995 budget exceeds the caps by over $13 billion.

We are making hard budgetary choices, but primarily only in the defense budget. The domestic discretionary caps did not require any real spending cuts, and the other half of the Federal budget—entitlement spending—continues to run on autopilot.

NO OTHER SOLUTION THAN REINSTATING THE FIREWALLS

Mr. President, I am led to the obvious conclusion that there is no other solution than to reinstate the separate spending caps—the firewalls—for defense spending and nondefense spending. Reinstating the firewalls does not keep the defense budget from being cut. Indeed, I understand the Defense Department is going through a wrenching review in order to hit the $120 billion defense spending reductions mandated by the administration.

No other department in the executive branch is going through such sharp reductions. Indeed, most departments that complain of cuts are really complaining that their budget is not increasing as much as they want it to.

Reinstating the firewalls doesn't stop defense cuts. It would remove the incentive to cut the defense budget quietly through complex legislative and budgetary maneuvering. It would put real discipline on the nondefense elements of the discretionary budget, since if they come in $13 billion over the caps next year they can't just fund the excess through deeper reductions in the defense budget.

Mr. President, this amendment supports President Clinton's budget. I know the President is committed to a strong defense. Unfortunately, however, the forces at work in the Congress and in his own administration have already undercut his budget number in defense, and more changes are on the way.

Mr. President, we continue to need a strong and ready defense establishment. We have American soldiers, sailors, airmen, and marines in combat conditions flying watch over southern Iraq, patrolling off the coast of Bosnia, and enforcing the no-fly zone, enforcing the U.N. peace process in Somalia. American forces around the world are operating in combat conditions in order to wage peace. We must have ready forces. But the readiness of our forces is seriously threatened by these outlay cuts. I gave great credit to Secretary Aspin and Deputy Secretary Perry for committing to avoid a return of a hollow military. Someone has to send a wakeup call that the readiness of our forces is threatened by these outlay cuts and the diversion of funds to nondefense programs.

Mr. President, this amendment is the wakeup call. This amendment endorses the administration's defense spending plans. It endorses the decisions the full Congress has already made concerning defense and domestic spending in the budget resolution.

But most important, this amendment removes the incentive for those who would risk a strong defense and raid the defense budget for other purposes. This amendment does not prevent a single Member from cutting the defense budget. This amendment does not exempt DOD from the normal scrutiny the Armed Services Committee and the Defense Appropriations Subcommittee give the defense budget. This amendment does not prevent a single Member of the Senate from offering an amendment to cut a program that he or she believes is ill-advised. This amendment permits the full operation of the normal legislative process.

This amendment does, however, remove the incentive to cut the defense budget just so that money can be diverted to other forms of Federal spending. This amendment permits defense cuts, so long as the savings go to reducing the deficit. And that really is what this entire bill is all about. I believe this is precisely the kind of legislation the President wants and needs to hold together his overall program and maintain a strong defense.

This is an amendment that upholds the integrity of the legislative process and instills the right fiscal discipline.

Mr. SASSER. Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. Four minutes.

Mr. SASSER. Mr. President, what we are seeing here is, once again, an effort to artificially protect military spending from having to take its chances in the appropriations process with the other discretionary spending that takes place there.

We had an agreement in the 1990 summit agreement that we would artificially protect military spending with walls for 3 years. As a result of those artificial protections, defense spending was held at an artificially high level even after the cold war was over. These walls were imposed prior to the disintegration of the Soviet Union. Yet we found after the disintegration of the Soviet Union, our principal adversary, we were still stuck with these walls separating military spending from other discretionary spending.

There is no reason that military spending cannot be prioritized just like other discretionary spending. And the proponents of this amendment are seeking to reinstitute these walls because they do not have much faith that the American people and the Congress of the United States are going to maintain military spending at the artificially high levels that it has been maintained at in prior years by the walls.

So I simply say, this is an archaic device to artificially protect and keep military spending from being subject to the prioritization of the Appropriations Committee like anything else.

Mr. SARBANES. Will the chairman yield?

Mr. SASSER. I will be pleased to yield to the Senator.

Mr. SARBANES. As I understand this amendment, it does the same thing for foreign aid. I serve on that committee. I may well be here trying to argue for a foreign aid bill, but I see no reason why that particular area of spending, along with military and domestic—why the judgments ought not to be made amongst them as to what ought to obtain priority treatment instead of creating, as it were, a safe haven or a safe harbor at certain figures that are going to be provided regardless, which is what this would do, as I understand it, not just for military. There is a separate category in this amendment for foreign aid and then a third category for domestic spending.

Mr. SASSER. The Senator is correct.

Mr. SARBANES. If you support this amendment, you are not going to be able to take foreign aid money and put it in other categories. Just like you will not be able to do it with military money.

Mr. SASSER. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 10 seconds.

Mr. SASSER. I yield the remainder of my time to the distinguished chairman of the Appropriations Committee.

Mr. BYRD. Mr. President, I strongly oppose this amendment. To the extent that we return to separate categories, Congress will be beholden to the bureaucrats at OMB on the one hand, or the political needs of the White House in determining what is a defense expenditure. The experience that we have had under the 3 years of walls between discretionary spending categories should have instructed us not to shortchange our flexibility in light of the rapidly changing requirements that are occurring both on the international and domestic scenes.

I hope that the Senate will reject this unwise amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield 30 seconds to the Senator from Arizona.

Mr. McCAIN. Mr. President, I stongly support this amendment. I associate myself with the remarks of the chairman of the Senate Armed Services Committee. I do not know the perception of others of the world situation today but we have gone from a very, very dangerous but very predictable world to a much less dangerous but very unpredictable world. There are conflicts taking place in 28 places throughout the world. We are drastically cutting the defense budget as it is. I say this amendment is vital in preserving our vital national security interests.

I might add, Mr. President, since World War II we have, several times, precipitously cut defense and paid in treasure and blood for our mistakes.

Mr. DOMENICI. Mr. President, the only thing really being cut in this budget on the discretionary side is defense—$120 billion in the next 5 years.

There are many who are saying that is too much. There are Senators around saying: We do not think it should be that much. Let me tell you, if you do not put a wall up, it is going to be more than that. Because if you think we in Congress, when there is a domestic need that somebody just thinking we ought to have, are going to cut a domestic program—we are going to cut defense some more.

The military deserves 2 years to plan a build-down without constant changes. That is all we are asking for; nothing more, nothing less. I believe it is the right thing to do.

I am on the Appropriations Committee. I have great respect for it. But the Defense Department and the President deserve a 2-year plan, not one that is constantly looked at to see what else can be taken out of it, and then we ask them to plan well and spend well when they just cannot do it unless they have a 2-year period.

That is what we are trying to give them.

Mr. NUNN. Will the Senator from New Mexico yield to me?

Mr. DOMENICI. I yield what time I have left.

Mr. NUNN. Mr. President, in response to the argument of the Senator from Tennessee, the artificial level of defense spending that he alludes to is the number that the President of the United States sent up here. It is his number. That is what we are talking about when we say artificial. It is a dramatic reduction from the past; we are going down but that is the number we are trying to protect.

Mr. SASSER. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. Fifteen seconds.

Mr. SASSER. I yield to the Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, the distinguished Senator from New Mexico said there were no cuts in domestic spending. I call attention to the fact that in 1994, there will be $2.183 billion in cuts in outlays, and in 1995, $3.39 billion in cuts in outlays.

So the Senator's statement is not correct.

The PRESIDING OFFICER. All time is expired.

Mr. SASSER. Mr. President, before moving on to the next—has all the Senator's time expired?

Mr. DOMENICI. All our time has expired.

Mr. President, I want to take 10 seconds off the bill, of the remaining time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DOMENICI. I say to my friend, the chairman of the Appropriations Committee, I understand the reductions; but those reductions, cuts, are to get to the previously established cap.

Mr. BYRD. These are cuts in the baseline.

Mr. DOMENICI. I stand corrected. If those are under baseline, there are that many cuts in domestic. I do not challenge the chairman.

Mr. SASSER. Mr. President, parliamentary inquiry. This amendment offered by Senators DOMENICI and NUNN is subject to a point of order. Under the unanimous-consent request, we are not precluded from offering a point of order at the point of voting, as the votes come in order as they are stacked, are we?

The PRESIDING OFFICER. The Senator from Tennessee is correct.

Mr. SASSER. In other words, I do not waive my right to make a point of order if I do not make it right now.

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, the next amendment is a Bradley amendment dealing with the line-item veto. There is 10 minutes allocated to this amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 542

(Purpose: To create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills)

Mr. BRADLEY. Mr. President, I call up amendment No. 542.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. HOLLINGS, Mr. COATS, Mr. McCAIN, Mr. ROBB, and Mrs. FEINSTEIN, proposes an amendment numbered 542.

Mr. BRADLEY. 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:

At the appropriate place insert the following:

SEC. . LEGISLATIVE APPROPRIATIONS AND THE EXPENDITURE LINE ITEM VETO.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURES LINE ITEM VETO

"LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY

"SEC. 1101. (a) SEPARATE ENROLLMENT.—

"(1) Notwithstanding any other provision of law, when—

"(A) any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations; or

"(B) any revenue bill containing a tax expenditure provision,

passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of appropriation or tax expenditure provision of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

"(A) shall be enrolled without substantive revision;

"(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this title); and

"(C) shall bear the designation of the measure of which it was an item of appropriation or tax expenditure provision prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

"(b) PREPARATION AND PRESENTMENT.—A bill or joint resolution enrolled pursuant to subsection (a)(1) with respect to an item of appropriation or tax expenditure provision shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) DEFINITIONS.—For purposes of this title—

"(1) the term 'item of appropriation' means any numbered section and any unnumbered paragraph of—

"(A) any general or special appropriation bill; and

"(B) any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) the term 'tax expenditure provision' means a division of a bill that amends current law or is free standing and that is scored by the Joint Committee on Taxation as losing revenue over the 5-year period after the provision takes effect.".

(b) EFFECTIVE PERIOD.—The amendment made by subsection (a) shall apply to bills and joint resolutions agreed to by the Congress during the 103d Congress.

Mr. BRADLEY. Mr. President, this is an amendment offered on behalf of myself and Senators HOLLINGS, COATS, MCCAIN, ROBB, and FEINSTEIN.

This is a line-item veto for the President of the United States. It would apply to appropriations and to tax expenditures. It has a 2-year sunset in order to give this a chance to see if it will work, to see if it is abused and to see if it will have a constitutional challenge. It also provides for separate enrollment of the line items in appropriations and tax bills.

I do not believe we will eliminate the budget deficit with the line-item veto, but I do believe that it will allow a President, if he chooses, to pose the narrow special interests against the general interests, and I believe, in that sense, it is a very important initiative.

I reserve the remainder of my time. I am prepared to yield to the distinguished Senator from Indiana for 1 minute.

The PRESIDING OFFICER. The Senator from Indiana has 1 minute.

Mr. COATS. Mr. President, if we are to achieve serious deficit reduction, we need more than what is before us today. We actually need structural reform of how we do business.

The most serious proposal that we have had before us in the last several years, that Senator MCCAIN and I have offered, has been the line-item veto to structurally reform the way in which we attempt to eliminate—or at least reduce—pork barrel spending.

I am very pleased that the Senator from New Jersey has offered this amendment, has initiated the process; and adding with it special-interest tax breaks that also cost the taxpayer a great deal of money. If we can enact this line-item veto, we can fundamentally change the way in which we do business.

Senator MCCAIN and I have offered this only to see it falls short. We are joining in a bipartisan effort with Senator BRADLEY and others on that side of the aisle. We can tonight send a very, very strong message to the American taxpayer that we are serious about dealing with the deficit.

I am pleased today to join my colleague, senator BRADLEY in a new bipartisan push to give the President line-item veto authority.

I have been fighting this battle since I came to congress because I believe the President desperately needs this tool if we are to cut wasteful congressional spending. Congress has proven that it cannot accomplish this objective on its own.

I have concentrated my efforts thus far on giving the President authority over wasteful spending tucked away in appropriations bills.

However, I am now convinced that we need to supplement this effort by giving the President authority over unnecessary special interest expenditures within tax bills.

The Bradley amendment intends to shed the light of debate on questionable spending and tax expenditures. It provides the President authority to veto line items in appropriations bills and to veto tax expenditures in revenue bills.

The amendment is simple. Each item in an appropriations bill and each item in a revenue bill that is scored as a net revenue decrease, would be enrolled as a separate bill and presented to the President.

As a result, all appropriations items and tax expenditures would be subject to a Presidential veto. If vetoed by the President, Congress would have an opportunity to override.

The line-item authority would sunset in 2 years. This should give us ample opportunity to show how effective the authority is in cutting wasteful expenditures.

This amendment is exactly the same as the sense of the Senate resolution which received the support of 73 Senators on March 25 of this year.

The Bradley amendment will require advocates to justify certain projects or tax expenditures to the American taxpayer.

ISSUE HAS BROAD BIPARTISAN SUPPORT

This is a nonpartisan issue. I, for one, supported a line-item veto for President Reagan; I supported a line-item veto for President Bush. And today, my support for giving President Clinton a line-item veto could not be stronger.

As President Clinton observed, the line-item veto "is one of the most powerful weapons we could use in our fight against out-of-control deficit spending."

Poll after poll clearly shows that a vast majority of Americans support giving the President this authority. Governors in 43 States have it. A recent study by the Cato Institute found that 92 percent of present and former Governors, of both parties, believe that a line-item veto would help the President restrain Federal spending.

President Calvin Coolidge once said, "nothing is easier in the world than spending public money. It does not appear to belong to anybody." The line-item veto would remind Congress that the money belongs to the American taxpayers, and that wasteful spending will not be permitted to go unchecked.

If President Clinton had the line-item veto, the savings may not be miraculous but they could be substantial. The GAO argues in a January 1992 report that, on the appropriations side alone, $70 billion could have been saved in the last half of the 1980's if the President had the power to apply this scalpel to congressional spending.

Think of what $70 billion over 5 years could cover. It could easily pay for WIC and Head Start, and then some; $70 billion could cover a doubling of the personal exemption to $4,000 for dependents under age 18 for 5 years; $70 billion would come close to paying for the entire student loan program for 5 years. It could apply $70 billion to the debt and reduce our interest obligations.

The line-item veto works because executive officials, representing broader constituencies, are often willing to oppose spending inserted in legislation by powerful lawmakers or narrow coalitions.

As President Clinton stated at a town meeting in Senator BRADLEY's home State:

> I keep telling my friends in Congress, they'd be better off [with the line-item veto]. They think they've got to pass some piece of pork barrel for the folks back home. Let me take the heat.

I hope my colleagues will vote for fiscal responsibility and vote to give the President line-item veto authority.

Mr. BRADLEY. I yield 1 minute to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank the Senator from New Jersey and others who are cosponsoring this amendment, this very vital amendment. I also would like to thank my friend from Indiana who, along with me, for many years now has attempted to achieve this goal that we may be on the verge of reaching.

Let me remind my colleagues, Mr. President, that the President of the United States has said that he wanted a line-item veto, and I quote him, "* * * to eliminate pork barrel projects and government waste." The President of the United States supports this.

I think the addition of the loophole-closing provision that Senator BRADLEY has put to it is a vital part of it, and, Mr. President, I will remind my colleagues that on March 25, Senator BRADLEY had a sense-of-the-Senate resolution which was exactly the same language. Seventy-three Senators voted in favor of this as a sense-of-the-Senate resolution. Now it is time to shoot with real bullets.

I yield back the remainder of my time.

Mr. BRADLEY. I yield 1 minute to the Senator from Virginia.

Mr. ROBB. Mr. President, I thank my colleague, Senator BRADLEY, and others, for offering this amendment. We are in a very serious situation, in my judgment. If we do not find a way to curb our appetite for deficit spending, we are truly a nation at risk.

This will not solve the problem. This will simply provide the President with

another tool in his arsenal which he can use to try to reduce the level of the deficit. Will it or could it be used in some way that would be abusive or, in a political sense, be contrary to the legislative needs? Perhaps, but anything else could.

I applaud the President for his leadership in dealing with real numbers and putting a courageous budget deficit reduction plan on the table, and I think this is what it needs to help him complete his task.

I yield whatever time remains.

Mr. BRADLEY. Mr. President, how much time remains on the proponents' side?

The PRESIDING OFFICER. Fifty seconds.

Mr. BRADLEY. I reserve the remainder of my time.

Mr. SASSER. Mr. President, I yield such time as I have remaining to the distinguished Senator from West Virginia.

Mr. BYRD. I thank the Senator from Tennessee.

Mr. President, the amendment before the Senate does not—I repeat, does not—provide the President a line-item veto. Senators need just simply to read the amendment to see that that is the case.

It does not give him the authority to veto specific items in an appropriations bill or in a revenue bill. I believe that any statutory effort to provide the President with such authority in its raw and pure form, such as a real line-item veto amendment, would be unconstitutional.

To get around these objections, Senator BRADLEY's amendment mandates that those bills, those appropriations bills, or revenue bills, be taken apart, separately enrolled, and sent to the President.

So if Senators think that by voting for this amendment they are voting to give the President the line-item veto, they ought to think again.

Simply put, what this amendment does, is to require the enrolling clerk of the House, or the Senate, to take an appropriations bill, or a revenue bill containing tax expenditures, and break that bill down into several parts after it has been passed by both Houses. How many parts would depend on how many numbered sections and unnumbered paragraphs the clerk found in the complete bill. The several smaller parts would then be enrolled as separate bills and sent to the President for his signature.

It should not be too difficult for anyone to see how that kind of requirement would create a logistical nightmare and result in a completely unworkable situation. Separately enrolling each numbered section and each unnumbered paragraph of appropriation bills or tax bills could produce literally thousands of smaller bills. And in the case of the 13 annual appropriations bills, many of which are not finalized until the last 2 weeks of the fiscal year, it would do this at the very time when the need to have prompt action on those bills is greatest.

This amendment, then, would have the effect of bringing the appropriations process to a virtual standstill. It would be impossible for the President to approve these vital bills before the start of the new fiscal year because there is just no practical way that that many bills could be processed and sent to the White House, let alone signed by the President, in such a short period of time.

Under this amendment, what the American people would be left with is a Congress and a President that could not, through no fault of their own, complete the important business of the country in a timely fashion. I do not believe that is what the public is clamoring for. No one is asking us to think up ways of complicating an already complex process.

Mr. President, beyond its practical problems, I oppose this amendment because it is nothing more than another attempt to substitute a process fix for the difficult job of making policy choices. As we are seeing with this debate on the reconciliation bill, those choices are not easy. They are not fun. But they must be made if we are going to make progress toward reducing Federal deficits.

On that point, let me say that while I do oppose this amendment, I applaud Senator BRADLEY for at least bringing tax expenditures into the debate. For too long, this body has turned a blind eye to the billions of dollars that are lost to the Federal Treasury through tax expenditures, many of which go to special interest groups and do nothing to help the average taxpayer. As we debate the difficult choices that must be made, tax expenditures can no longer be ignored.

Finally, let me point out that I believe this amendment raises serious constitutional questions.

As Senators will see, under article I, section 7, clause 2 of the U.S. Constitution, we read these words:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it.

Now, Mr. President, if we allow a clerk, if we give a clerk the power to break out these items, enroll them separately, send them to the President separately, how are those separate bills going to be numbered? If the House sends to the Senate a bill numbered H.R. 1000, and the clerk, in enrolling the bill, breaks it out into 500 different bills, how are they going to be numbered, H.R. 1000-1, H.R. 1000-2, H.R. 1000-3? Not any one of which, not any one of which will have passed both Houses.

The Constitution says every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to the House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. These are not bills that will have passed the House and Senate. They are simply pieces of paper that an enrolling clerk shall have enrolled, put some subnumber designation on and sent down to the President. Not one would have been passed by both Houses.

And, second, if the President should decide to veto 25 of these, let us say, he would have to send back up 25 bills with his reasons for having vetoed them. And then the House, in which the appropriations bill originated, would have to vote to override each of those vetoes, if it sought to do so. And the yeas and nays under the Constitution are ordered. That means the House would have to vote 25 times to override the President's veto, and they would have to send 25 bills over here for the Senate to attempt to override.

It is a monstrosity. It is a clerical and administrative nightmare. Mr. President, I hope that the Senate will not stigmatize itself by voting for this amendment. The Senate would be the laughingstock of the Nation as far as anyone is concerned who can read a bill or an amendment and the language thereof and understands the language of the Constitution.

I urge Senators to vote against the amendment.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The sponsors have 47 seconds.

Mr. BRADLEY. Mr. President, I submit for the RECORD a letter from Laurence Tribe, distinguished constitutional scholar at Harvard University, who essentially supports this approach to the line-item veto and argues by stating:

> Courts construing the Rules Clause of Article I Section 5 have interpreted it in expansive terms, and I have little doubt that the sort of individual presentment envisioned by such rules change would fall within the Congress' broad authority.

Mr. President, this is obviously an issue of which there will be a discussion and dispute. I know that we will have long debate about this, if this fails to pass, on future occasions. As the distinguished chairman of the committee knows, I am very serious about it applying to the whole bill but also the tax expenditures. This is the time for that vote.

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

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

HARVARD UNIVERSITY LAW SCHOOL,
Cambridge, MA, January 13, 1993.

Hon. BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR BILL: I was delighted to see your Op. Ed. piece on the line-item veto in this morning's Wall Street Journal. Like you, I've changed my mind on this subject in light of the crisis we face.

You are certainly right to note the constitutional obstacles to any attempt by Congress to confer actual line-item veto authority on the President. I can think of a number of ways of advancing a constitutional defense to such a statute, but the struggle would be steeply uphill, and rightly so.

Although you don't discuss the enhanced rescission authority that Tom Foley has proposed, I share your implicit conclusion that it's not an idea worth spending much time on. Such increased rescission power is a chimera both because of the enormous practical difference between a majority vote and a two-thirds vote and because either House of Congress could at any time renege on its supposed promise to consider presidential rescission proposals on an expedited basis or indeed its promise to vote on those proposals at all.

Commitments regarding internal congressional procedures are, of course, not judicially enforceable, given the constitutional guarantee to each House "to determine the Rules of its Proceedings." Article I, §5, cl. 2. Both the Supreme Court and Congress have indicated in a wide range of contexts that the power of the House and the Senate to formulate their own internal rules cannot constitutionally be abridged by statute. The same result would obtain if anyone were to challenge the failure of Congress, under an enhanced rescission statute, to hold a supposedly obligatory vote within a specified period of time. This flaw is especially serious because it would come into play only after the President had signed an appropriations or tax measure into law and then requested specific rescissions. There'd be nothing but a sense of shame—something Congress often lacks—to prevent it from inducing the President to sign a controversial omnibus bill by promising to consider his rescission proposals and, after the bill had become law, simply changing its mind. Thus, the Foley suggestion—even though a version of it passed the House in October 1992 as H.R. 2164—should probably be treated as little more than a cosmetic suggestion for an informal and extra-constitutional agreement between Congress and the President. In my view, it does not really advance the dialogue much.

The most promising line-item-veto idea by far is the suggestion you endorsed today—namely, that Congress itself begin to treat each appropriation, and each tax measure, as an individual "bill" to be presented separately to the President for his signature or veto. Such a change could be effected simply, and with no real constitutional difficulty, by a temporary alternation in congressional rules regarding the enrolling and presentment of bills.

Courts construing the Rules Clause of Article I, §5 have interpreted it in expansive terms, and I have little doubt that the sort of individual presentment envisioned by such a rules change would fall within Congress's broad authority. See, for example, UNITED STATES v. BALLIN, 144 U.S. 1,5 (1892); FIELD v. CLARK, 143 U.S. 649, 669–73 (1892).

Although such a congressional rules change would be revocable by Congress at any time and might therefore lack the dramatic appeal that some evidently see, this very lack of permanence might be just the feature that enables the proposal to overcome the predictable resistance on Capitol Hill that any such mechanism would trigger. Much of that resistance is the product of reflex rather than reflection, and it has been understandably exacerbated by the accretion of troublesome power in the hands of reckless Presidents over the past two decades. Happily, the Clinton presidency should be different.

I'm particularly drawn to your suggestion that the line-item veto that you propose remain in effect for at most two years. Such a built-in "sunset clause" seems to me the best answer to the argument that this fiscal tool would unduly weaken Congress in the struggle for power with the White House, or that it would not prove useful enough to warrant a long-term institutional change.

I don't have any idea how those who are advising the President-elect on this matter will react to your idea, or whether Bill Clinton himself will find it attractive enough to overcome the concerns that have already been voiced about any shift of authority in this area. Still, I'm hopeful that your support for the notion might make enough difference to put it over the top as a worthwhile experiment. If I can be of any help, don't hesitate to let me know. In the meantime, please feel free to share this letter with Senator Hollings or anyone else you think appropriate.

Sincerely,

LAURENCE H. TRIBE.

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

All time has expired.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I shall raise a point of order against this amendment also when we have concluded all amendments.

The next amendment is the amendment offered by Senator MCCONNELL dealing with a Presidential checkoff, which has been allocated 5 minutes.

AMENDMENT NO. 547

(Purpose: To strike the section increasing the Presidential election campaign fund checkoff)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] for himself, Mr. LOTT, and Mr. GRASSLEY, proposes an amendment numbered 547.

Mr. MCCONNELL. 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 7953.

Mr. MCCONNELL. Mr. President, on the heels of last week's campaign finance debacle, the Senate is now considering finance debacle, the Senate is now considering a bill that not only contains the largest tax increase in history, but also triples taxpayer funding of the Presidential Candidate Entitlement Program.

Let me repeat what I said for the benefit of beleaguered C-SPAN viewers. This bill contains the largest tax increase in history, and it triples the hit taxpayers will take for the presidential system—by raising the income tax checkoff from $1 to $3.

I draw my colleagues' attention to section 7953 of the bill, which triples the amount that tax filers can earmark, from the U.S. Treasury, for the Presidential campaign fund.

The checkoff is a unique device in our Tax Code, which gives private citizens who file tax forms the power to appropriate money from the U.S. Treasury.

Under the current checkoff, for each taxpayer who checks yes, $1 is diverted from the Treasury into the Presidential fund—thereby reducing the total funds available for deficit reduction or other needs.

Checking yes does not raise one's taxes or reduce one's refund. It simply takes $1 out of the Treasury and earmarks it for the specific purpose of financing Presidential elections.

Last year, the number of people who were willing to divert $1 from the Treasury to Presidential campaigns declined to an all-time low of 17.7 percent—down from a high of 29 percent in the late 1970's.

In other words, roughly 83 percent of American taxpayers felt there was a better use for their tax dollars than financing political campaigns.

The tiny minority of taxpayers who check yes are actually spending everyone's tax money—not just their own. As I said earlier, the funds appropriated through the checkoff come out of the General Treasury, and are diverted from other needs.

Therefore, the vast majority of taxpayers who choose not to checkoff are forced to pay for the few who do.

Even worse, raising the checkoff amount to $3 actually triples the power of this tiny minority to spend the undesignated funds of the majority. In other words, if someone is willing to spend tax dollars for the almost universally despised purpose of financing campaigns, their relative power will be enhanced by a factor of three under this bill.

This proposal to triple the checkoff—in the face of massive public resistance to taxpayers financing—is a direct repudiation of the will of the vast majority of Americans not to have their tax dollars used to fund political campaigns.

Since most taxpayers oppose this idea, the bill before us seeks to vastly increase the power of the few who believe that checking yes is the good-government thing to do. This is elitism in its most blatant form.

My amendment seeks to preserve the will of the people, expressed year after year on their tax returns, that they don't want their money spent on political campaigns—period.

The best possible way to achieve that would be to eliminate the checkoff rip-

off altogether; simply close down this shell game once and for all. This could be done by getting rid of the check-off entirely, or by making it an add-on instead of an earmark of taxes already owed.

Either option would be more intellectually and financially honest than the current checkoff scam. Unfortunately, however, neither of these options are available to us in this context.

As the next best step then, to protect the interests of taxpayers who check no on using tax dollars to pay for political campaigns, my amendment simply strikes the increase in the checkoff amount from $1 to $3.

Even better, my amendment will save money—a precious commodity in our struggling economy and in these tight budgetary times.

The best estimate of the savings that my amendment would generate is about $60 million a year. I can think of a lot better uses for $60 million a year than paying for political TV ads. I am sure most of my colleagues can, too.

But the most important reason to support my amendment is to extend simple fairness and honesty to the American taxpayers.

The current check-off is deceitful. While a few may get an illusory good-government buzz from checking yes, the checkoff is not voluntary for all of those who check no, but whose tax dollars get diverted anyway.

It's time to stand up for the rights of the vast majority of taxpayers who do not want their taxes taken away from deficit reduction, from health care, from education, from job training, and spent instead on 30-second political ads and the party conventions.

The truth is this amendment ultimately is not about campaign finance reform or taxpayer financing of elections; it's about fundamental fairness and respect for the rights of American taxpayers.

Further, my limited amendment will not end the unfairness and dishonesty of the current checkoff. But it will prevent the checkoff ripoff from getting a whole lot worse—by striking the provisions in this bill which triples the checkoff amount.

About 17 percent of American taxpayers support the checkoff, and about 83 percent do not. So I ask my colleagues now: Whose side are you on?

I urge my colleagues to stand up for taxpayer rights, and support my amendment.

In conclusion, Mr. President, the Presidential election checkoff fund is a unique part of the Internal Revenue Code. It essentially allows the participant to appropriate money. The taxpayer, once a year by checking the box indicating that the particular taxpayer wants to divert a dollar of taxes already owed to the Presidential election fund, has, in effect, been granted the authority by the Congress to appropriate money—a good deal of power that we have granted to that taxpayer.

Back in the late 1970's, when this process began, about 29 percent of American taxpayers chose to check off a dollar of taxes they already owed, to divert that from other Government uses, and to spend it on political campaigns for candidates for President.

In the intervening years, Mr. President, the enthusiasm for this has waned dramatically. It has gone from 29 percent in the late 1970's down to 17 percent last year. Eighty-three percent of American taxpayers choose not—choose not—to appropriate money by checking off to the Presidential election campaign fund.

The fund is dying, and so in this underlying budget reconciliation an effort has been made to grant to the mere 17 percent who check off even more power by giving them the authority to check off $3 instead of $1 to move out of the Treasury and into politics.

What we are doing, Mr. President, is trying to grant to a diminishing minority of American taxpayers more power to appropriate money out of the Treasury to spend on political campaigns. My amendment simply would strike that. It would save $60 million a year for deficit reduction or for childhood immunization or for anything else that the 83 percent who are not checking off presumably would rather see this money spent on.

So, Mr. President, we should not attempt to prop up this Presidential election fund, which is losing public support. It is dying on the vine because people are not willing to divert tax dollars to this purpose. If we wanted to be honest about it, what we ought to do is have the checkoff add $1 to the taxpayer's tax return. Then the taxpayer would really have to demonstrate that he supported taxpayer funding of elections.

Under the current system, we, however, are giving the taxpayer the authority to appropriate money, directly appropriate money to politics to pay for political campaigns. And now we want to take that diminishing group, that mere 17 percent, and allow them to appropriate even more money.

So, Mr. President, I hope that my amendment will be approved. This ripoff should not be expanded.

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

Mr. SASSER. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Two and a half minutes.

Mr. SASSER. Mr. President, I see no one on our side wishing to speak in opposition to the Senator's amendment.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. As I understand this amendment, it would repeal the checkoff altogether?

Mr. McCONNELL. No. I am out of time.

Mr. SARBANES. The Senator repeals the increase to it.

Mr. McCONNELL. Simply eliminate the increase.

Mr. SARBANES. Well, of course, I support the public funding of Presidential elections, and I think it is an important step forward that was achieved. It has been used now in a number of Presidential campaigns actually by both parties. With all due respect to my colleague—and I know his view on public funding—their own nominees have used it when it was available to them. They could have rejected it but they have chosen to use it.

I frankly think that we ought to try to keep the public funding of Presidential campaigns as part of our political system.

Mr. McCONNELL. Mr. President, will the Senator yield for an observation?

Mr. SARBANES. Yes.

Mr. McCONNELL. My amendment does not kill the Presidential——

Mr. SARBANES. I understand that. But as I understand it, the amendment is an effort to help ensure that enough money draws into that fund in order to be able to underwrite the cost of the campaigns. Otherwise, you will be back out with a cry for private financing and back into all of the difficulties that led to the enactment of this in the first place.

Mr. McCONNELL. Will the Senator yield? I would just say——

Mr. SARBANES. I always yield to my friend from Kentucky.

Mr. McCONNELL. The only reason the Presidential fund is in trouble is because fewer and fewer people are checking off. It has dropped down to 17 percent. That is the reason it is in trouble. People are simply choosing against diverting the dollar.

Mr. SARBANES. I understand that. The fact remains, the question is whether you want to keep this feature in terms of how we deal with Presidential elections. We just had a big argument over the Senate elections. But I do not think we ought to intrude into the Presidential system.

Mr. SASSER. Mr. President, under the unanimous-consent agreement, the next amendment is an amendment by Senator GRAHAM dealing with Medicare, which has 10 minutes allocated.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 548

(Purpose: To eliminate the reduction of payment updates for inpatient hospital services, the reduction in payment for indirect costs of medical education, the extension of medicare-dependent small rural hospital payments, the reduction in skilled nursing facility cost limits, the changes in payment for hospice care, and the changes to payment formulas for certain outpatient hospital services and to pay for the provisions eliminated)

Mr. GRAHAM. 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 Florida [Mr. GRAHAM], for himself and Ms. MOSELEY-BRAUN, and Mr. HARKIN, proposes an amendment numbered 548.

Mr. GRAHAM. 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:

Insert the following: Page 166, beginning with line 3, strike all through page 178, line 20.

On page 181, beginning with line 1, strike all through page 184, line 13.

On page 185, beginning with line 17, strike all through page 187, line 6.

On page 212, beginning with line 7, strike all through page 214, line 24.

On page 524, line 13, strike "35 percent" and insert "36 percent".

On page 524, line 24, strike "35 percent" and insert "36 percent".

On page 525, lines 2 and 3, strike "65 percent" and insert "64 percent".

On page 525, line 6, strike "35 percent" and insert "36 percent".

On page 525, line 9, strike "35 percent" and insert "36 percent".

Mr. GRAHAM. Mr. President, when the President submitted his economic proposal, I felt there were three principal questions that should be asked. One, would it make a substantial dent in the burgeoning Federal annual deficit and move us toward the day when we could begin to see some regression in our enormous national debt?

Second, would it contribute to the strengthening of the Nation's economy?

Third, was it fair?

I have sent out literally thousands of letters in support of the President's original plan because I thought it met those tests. I am concerned about the bill that is before us tonight as to whether it continues to meet those standards. One area in which I am especially concerned relates to the deep cuts that were made in the Medicare Program by the Senate Finance Committee.

I am not just concerned about the impact of these on the well-being of older Americans who depend upon this program for their health care, although I am very concerned about that.

I am also apprehensive about what the adoption of these deep cuts will mean to our ability to achieve meaningful health care reform, and what the failure of achieving meaningful health care reform will mean to our ability to sustain significant deficit reductions.

Mr. President, if I could draw your attention to a chart—similar charts have been shown throughout this debate—this illustrates the dilemma that we face. The blue line is President Clinton's economic plan for the next 10 years. It has a gradual decline in terms of the deficit from this year's $319 billion down to a low of $205 billion in 1996.

The discerning feature of this line is that after 1996 it begins to turn upward again, and by the end of the century we are about back to where we are today in terms of a level of annual deficit.

How are we going to keep that curve from inclining upward? The answer is we must adopt health-care reform during this period of the mid 1990's in order to keep that line going downward toward our objective of a balanced Federal budget.

I am concerned that by adopting these deep Medicare cuts we are going to make it much more difficult to achieve health-care reform, and therefore fail to accomplish one of our fundamental missions which is to reduce the annual Federal deficit.

The amendment that I have sent to the desk, Mr. President, restores the Medicare cuts to the level that was originally suggested by President Clinton.

I want to indicate that we are, even with the adoption of this amendment, still calling for reductions in Medicare below what would otherwise have been the case of some $50 billion over the next 5 years. This is not a program that escapes the scalpel, but we, by this amendment, would make that cut somewhat less severe.

Let me give an example of an area in which, if this amendment is not adopted, there will be serious pain inflicted.

We reimburse—we, the Federal Government reimburse—hospitals for their costs based on a complex formula. Frankly, Mr. President, if you have visited, as I have and many of us have, particularly rural hospitals and look at what they get reimbursed under the current formulas and what it actually costs them to provide the services, it is no wonder that so many of our rural hospitals, particularly in areas that have a high percentage of elderly population, are going out of business; because we are systematically funding them through Medicare reimbursements at less than their actual cost of delivering services.

Contributing to that has been that we have been reducing the annual reimbursement below what we state to be the equivalent of the cost of living for hospitals. There is a market basket of factors that lead to the determination of how much a hospital's expenses have increased.

Mr. President, this current bill would cut that even further, driving more hospitals, rural and urban, into distress. This amendment would restore those funds and would do so as the President has suggested, by increasing the corporate rate from 35 to 36 percent in order to fill that gap. I urge the adoption of this amendment.

Mr. ROCKEFELLER. Mr. President, it is with reluctance and great respect for my very close friend, Senator GRAHAM of Florida—he and I served together as Governors for a number of years—so I know very well of his deep commitment to health care. But I have to say that I rise to oppose this amendment because basicaly, with the disparate nature of this body, and in that it is generally agreed that everybody on the other side is going to be voting no, and therefore it is a very delicate balance as to how to achieve enough to get a positive vote on this side. That even being in question, I believe we have done as well as we can do.

Some of my colleagues in the Senate have proposed to cut $114 billion from Medicare and Medicaid. We took that down to 35. Then we took it down to 21. Then we got rid of all of the cuts in Medicaid, which also affects hospitals. Then we went down to $19 billion. Then this day, with the help of the Senator himself, we reduced it further not just to $19 billion but down to $10 billion. And of the $9 billion that we gave back to hospitals, of the $9 billion that we gave back, over $7 billion goes to hospitals. And we are going to go to conference where I hope we are going to reduce even further from $10 billion.

So I urge my colleagues to vote against this amendment because we have done everything humanly possible including, with the help of my friend from Florida, to try to reduce this to the lowest possible Medicare cut that we could possibly achieve, and we have done that. It is $10 billion. We cannot go any further within the disparate nature of this side of the body.

Mr. MOYNIHAN. Will the Senator yield 15 seconds?

Mr. ROCKEFELLER. Certainly.

Mr. MOYNIHAN. I certainly thank him for this body for a superb performance in the negotiation today, which brings us to this point, a point where we provide in this measure that Medicare outlays will increase by 49.1 percent in 5 years. It could not have been done without the Senator from West Virginia, and he has my deep gratitude.

I am sure the Senator from Florida recognizes that what we provide here is for a huge increase in Medicare within the constraints hoped for by the Budget Committee.

Mr. ROCKEFELLER. I add in closing for my purpose, the chairman of the Finance Committee is, of course, correct. As people listen to our debate, they think we are really talking about cuts

in Medicare. Of course we are not talking about cuts in Medicare. We are talking about cuts in rates of growth.

So I hope my colleagues will reject this amendment. I say that sadly because I know the Senator is trying to do a good thing.

I urge my colleagues to oppose the amendment.

Mr. GRAHAM. How much time remains, Mr. President?

The PRESIDING OFFICER (Mr. LAUTENBERG). The time of the sponsor has expired. The opposition has a minute and a half remaining.

Mr. ROCKEFELLER. Mr. President, I yield back the minute and a half that remains.

Mr. GRAHAM. 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. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I am advised that at the appropriate time a point of order will lie against the amendment of the Senator from Florida. It will be raised after concluding debate on all amendments.

The next amendment is an amendment to be offered by Senator DANFORTH. There is a 10-minute time limitation on this amendment.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Subparagraph (c) of section 1105 violates section 313(b)(1)(A) of the Budget Act, because it does not produce a change in outlays or revenues.

I raise a point of order that this provision is extraneous.

Mr. SASSER. Will the distinguished Senator from Missouri yield for a question?

Mr. DANFORTH. Yes.

Mr. SASSER. I ask the Senator what he raises a point of order against, specifically.

Mr. DANFORTH. Mr. President, the bill authorizes the Secretary of Agriculture to continue a prohibition on the commercial use of bovine growth hormone beyond a period in the bill that I understand would be ruled germane.

This point of order raises the question of the Byrd rule with respect to a prohibition on the sale of a biotechnological product, which prohibition has nothing to do with the budget. Therefore, it is not appropriately in this legislation.

Mr. SASSER. I thank the Senator.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. If the Senator from Wisconsin will withhold. Will the Senator from Missouri please restate and identify the page and the line to which he refers.

Mr. DANFORTH. Page 12, lines 3 through 13.

Mr. KOHL. Mr. President, at the appropriate time, pursuant to section 904 of the Congressional Budget Act, I will move to waive section 313 for the purposes of section 1105(c) in the bill.

Mr. SASSER. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes remaining.

Mr. SASSER. I yield the remainder of the time to the Senator from Wisconsin.

Mr. KOHL. Mr. President, today I rise to support the Agriculture Committee's provision to place a temporary moratorium on bovine growth hormone [BGH/BST].

I believe this moratorium is important because BGH would have profoundly negative effects on the taxpayers and dairy farmers of this Nation if it were to be cleared for commercial use at this time. One concern that I believe the American people have about BGH is the possible effects on U.S. dairy product exports. If the United States were to permit dairy products from BGH-treated cows to be marketed now, the United States would be the only major dairy-exporting nation to be doing so.

The European Community has a temporary moratorium on commercial use of BGH. Australia has prohibited commercial use of BGH until other major dairy exporting nations are also using it. Neither New Zealand nor Canada have approved BGH for commercial use.

If the United States decides unilaterally to use BGH in its dairy products, it could potentially become the source of a trade barrier against exports of U.S. dairy products, even after BGH has gone through the full FDA approval process. At this time, there are no effective trade mechanisms to prevent such trade barriers from being imposed.

The concern about trade barriers is not unfounded. For example, the European Community has placed a ban on U.S. beef products because of the United States use of hormones in beef production, and efforts by U.S. trade officials to dispute that ban have been futile.

The dairy supply-demand and price balance in the United States has become extremely sensitive as the dairy price support level has been reduced to levels well below average market prices. As a result, the loss of sales to potential BGH-embargoing nations could cause a 5-percent erosion of U.S. average farm prices and a loss of U.S. dairy farm income of approximately $1 billion annually.

Corresponding to these losses in dairy farmer income would be large increases in the cost to taxpayers, as the Federal dairy price support program would be responsible for purchasing any surplus created by the lost markets.

While U.S. dairy product exports are not as large as some other agricultural products, they are significant. During fiscal year 1992, the United States exported $638 million worth of dairy products. Analysis of these markets shows that at least one quarter of these exports would be at risk of restriction or embargo.

I urge my colleagues to support the BGH moratorium by voting to waive the point of order. In doing so, my colleagues will be voting to save the taxpayers millions of dollars.

This provision is supported, among others, by the National Milk Producers Federation, the American Agricultural Movement, ASPCA, Ben and Jerry's Homemade Ice Cream, Inc., Community Nutrition Institute, Consumers Union, Consumer Federation of America, Food and Water, Inc. Friends of the Earth, Humane Society of the United States, Institute for Agriculture and Trade Policy, National Family Farm Coalition, National Farmers Organization, National Farmers Union, Rural Coalition, Sierra Club, Storyfield Farm Yogurt, Sustainable Agricultural Coalition, United Methodist Church, General Boards of Churches Society.

I yield the floor.

Mr. DANFORTH. Mr. President, first let me correct what I previously told the Chair. The relevant part of the bill is on page 13, lines 15 through 25.

Mr. President, just to explain the situation, a constituent of mine, Monsanto Co., has done what most of us have hoped businesses would be doing for a long time. Instead of looking only at the next profit and loss statement, they have looked down the road, and they have invested in research and development. They have invested, over the past decade, approximately $1.5 billion in biotechnology, and they have never sold a product. They have never returned a nickel on their investment.

Mr. President, they are now getting in the process of having cleared through FDA, and they have no reason to suspect they will not get FDA approval, the first products to be generated from $1½ billion of investment. The product is called BST and it is a hormone inplant for dairy cows.

Now we have in this legislation two different moratorium on the marketing of this product, one is a 1-year moratorium that is said to produce $15 million in saved money on the dairy program. I think that that is not much of a saving for the major premise of putting a moratorium on a new high-technology product. But I am not raising it on that 1-year moratorium because the Chair would rule against me because of the $15 million.

I am raising the Byrd rule on that part of the moratorium that extends it beyond the year and for which there

has been no scored revenue effect whatsoever and which provides the Secretary of Agriculture with the authority to simply keep a product off the market because the product is viewed as being threatening. Maybe, we in Congress want to legislate to keep products off the market that are high-technology products because they threaten someone. The computer threatens the abacus manufacturers.

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

Mr. DANFORTH. I thank the Chair.

Mr. President, may I inquire, has there been a ruling on the moratorium?

The PRESIDING OFFICER. The Chair is inquiring as to that.

The Chair knows that there has not been a motion to waive proffered. If one is offered, we would have to then vote on the motion.

Unless there is a point made, the Chair will be prepared to rule.

Mr. KOHL. Mr. President, pursuant to section 904 of the Congressional Budget Act, I do move to waive section 13 for purposes of section 1105(c) of the bill.

The PRESIDING OFFICER. Does the Senator seek a rollcall vote to sustain?

Mr. KOHL. At the appropriate time, I will seek a rollcall vote. If right now is appropriate, I seek a rollcall vote right now.

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. Then the vote will be stacked in the order of the schedule as developed earlier, and at the appropriate time, the Chair will call for a rollcall vote on the Senator's request.

Mr. KOHL. I thank the Senator.

The PRESIDING OFFICER. Thank you very much.

Mr. MOYNIHAN. Mr. President, I believe we are to understand that Mr. BRYAN has an amendment.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 551

(Purpose: To repeal the section 936 credit and to express the sense of the Senate that the resulting increase in revenues be used to limit the reductions in Medicare)

Mr. BRYAN. Mr. President, on behalf of Senator REID and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. REID, proposes an amendment numbered 551.

Mr. BRYAN. 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 560, line 1, strike all through page 575, line 24, and insert:

SEC. 8227. REPEAL OF SECTION 936 CREDIT.

(a) REPEAL.—

(1) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(i) TERMINATION.—No credit shall be allowed under this section for any taxable year beginning after December 31, 1993."

(2) CONFORMING AMENDMENT.—Section 27(b) is amended by adding at the end the following new sentence: "No credit shall be allowed under this subsection for any taxable year beginning after December 31, 1993."

(b) SENSE OF THE SENATE REGARDING USE OF THE RESULTING INCREASE IN REVENUES.—It is the sense of the Senate that the increase in revenues resulting from the repeal made by subsection (a) should be used to limit the reductions in spending under the medicare program under title XVIII of the Social Security Act otherwise made by amendments made by subtitle A of title VII of this Act.

Mr. BRYAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. BRYAN. Mr. President, let me say the purpose of the amendment which I have offered on behalf of Senator REID and myself accomplishes two things:

One, it eliminates entirely provisions under 936 of the Tax Code which I will try to explain in greater detail but with more particularity.

And, second, with the savings received, there would be an additional $12½ billion over a 5-year period of time and expresses a sense-of-the-Senate resolution that those moneys be allocated to Medicare.

I do so for these reasons.

Mr. President, I am concerned about the cuts in Medicare. I acknowledge that the architects of the measure that is before us have labored mightily to reduce the impact of those. Nevertheless, there is a $50 billion cut in the House, and even after the adjustments, that have been made earlier on the floor this evening, the Senate cut an additional $10 billion. It is argued that those really do not have an impact on the Medicare recipient.

With regret I respectfully disagree with that analysis and would say with my colleague that enough of my fellow Nevadans are having great difficulty accessing the Medicare system. Part of the consideration in the bill is weighing the balance in fairness. I want to speak specifically to the provisions of section 936, an obscure provision in the Tax Code.

I think most Americans would be shocked and outraged. And I am told there is a documentary later on this evening which will discuss this at some length. Suffice it to say, what section 936 says to American corporations that locate and establish businesses in our possessions, primarily Puerto Rico, is they will pay no corporate income tax at all, none. The measure is not designed or predicated upon the number of jobs that may be created as a consequence.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. MOYNIHAN. Mr. President, it is 7 minutes equally divided.

The PRESIDING OFFICER. Yes. There is 1 minute and 30 seconds remaining on the proponents' side. There are 3 minutes and 30 seconds remaining on the opponents' side.

Mr. MOYNIHAN. I yield to the Senator the time.

Mr. BRYAN. Mr. President, let me yield myself the remainder of the time in the 7 minutes that has been allocated.

It is almost impossible to develop it, and I appreciate the distinguished chairman of the Finance Committee yielding.

Section 936, in effect, says a corporation that may have a tax liability of $30 million if you go to Puerto Rico or one of the possessions you pay nothing.

I see on the floor my distinguished senior colleague from California trying to rebuild the inner city in Los Angeles, South-Central Los Angeles. Any businessman involved in a manufacturing enterprise who today chooses to leave South-Central Los Angeles and go to Puerto Rico will pay no corporate income tax as a result of the profits generated by that enterprise.

I wish there was a provision like we provide for the possessions for my own State or any other States, but there is no such provision. I would respectfully submit it is totally unfair and indefensible in the sense that it is not in any way premised expressly upon the creation of new jobs or the amount of the investment. It is simply a shelter from the tax liability and profits generated.

My colleagues will recall, I am sure, that our distinguished colleague, Senator PRYOR, released a GAO study last year in which it was pointed out that the primary beneficiaries of this provision are the large pharmaceutical companies that have located in Puerto Rico.

Mr. President, today I am proposing an amendment to the budget reconciliation package to eliminate a large part of the additional $19 billion in proposed Medicare cuts, by repealing the section 936 tax credit allowed U.S. companies operating and hiring workers in U.S. possessions.

Seniors across my State have made it clear they feel Medicare is taking too great a hit in this budget proposal. Seniors have been consistent—they are willing to share, but not to bear, an unfair burden of the needed revenue cuts. Seniors understand these proposed Medicare cuts are basically being made on the backs of hospitals and doctors in the form of reduced reimbursement. But let us not fool ourselves, these seniors also understand very well how

these cuts are going to directly affect them—through decreased health care access, and ultimately through cost shifting.

The seniors in Nevada have already experienced the difficulty of finding a physician willing to take new Medicare patients. My own State offices have frequently been contacted by seniors unable to find a physician willing to take new Medicare patients. I know each of my colleagues has heard the lament for years coming from physicians and hospitals that Medicare reimbursement does not cover the full costs incurred in providing care to Medicare beneficiaries, and that they are going to cut back or even withdraw their participation in the Medicare Program. Under these proposed Medicare cuts, I think the point is rapidly being reached where this lament will become a reality.

I want the seniors in Nevada, and across this country to be reassured of their access to health care through the Medicare Program. To cut another $19 billion in cuts already proposed is just too much. Cutting Medicare by nearly $70 billion, seriously jeopardizes health care access.

For a Medicare eligible senior, the first step to entering the Medicare system is usually through a physician. To encourage physicians to not reduce their acceptance of Medicare eligible patients, the physician inflation update percentages have been increased. Likewise, to encourage hospitals to not reduce their acceptance of Medicare patients, the hospital payment updates have been raised. These changes account for approximately $7.2 billion in reduced cuts.

I have also included striking the proposal to reduce Medicare payments for services performed in outpatient hospital settings by changing how the payments are calculated. The Senate Medicare cut proposal set as a goal to ensure Medicare beneficiaries would not be directly impacted through premium, deductible and copayment increases, and I commend the success of that effort.

However, the proposed formula for lowering Medicare's payment for hospital outpatient services creates an unintended consequence. It will impact Medicare beneficiaries directly by encouraging hospital outpatient services to shift greater costs to them. The Senate proposal does not correct the inequity in the beneficiary coinsurance amount that currently exists, as coinsurance will continue to be based on the amount the hospital charges for a service instead of the amount Medicare agrees to pay. This means Medicare seniors will likely pay even more than they should for hospital outpatient services. Striking the outpatient hospital payment proposal accounts for approximately $5 billion in reduced cuts.

Mr. President, the offset I have chosen to include with these changes in the Finance Committee's Medicare cuts pays for the changes completely, raising $12.5 billion over the next 5 years. in addition, I believe this particular revenue raiser also represents sound public policy.

The amendment I am offering completely repeals the Section 936 possessions tax credit.

As we are all aware, Section 936 effectively exempts from the United States corporate income tax all profits earned by United States corporations by their subsidiaries operating in United States possessions, primarily Puerto Rico.

There are a number of reasons why a repeal of Section 936 is justified. First and foremost, during a time when we are asking nearly every American to make some sort of sacrifice to bring the deficit under control, we simply cannot afford to continue to offer this overly generous, and much abused credit, to a relatively small number of large American corporations.

Ostensibily a tax credit to encourage economic development in U.S. possessions, the Section 936 tax credit has developed into a huge corporate boondoggle, providing a mutlibillion offshore tax shelter for some of America's most profitable companies.

The huge Section 936 credit claimed by a number of U.S. pharmaceutical firms are a case in point. A GAO study requested by our colleague Senator DAVID PRYOR, chair of the Special Committee on Aging, last year reveals a number of shocking details. According to the GAO:

> The pharmaceutical industry received about half the total tax benefits from section 936, and provided between 15 and 18 percent of the jobs of all section 936 corporations in Puerto Rico.

Since section 936 is intended to be an employment and economic development program for Puerto Rico, the GAO measured the tax credit provided companies for each employee. For pharmaceutical companies, the credit amounted to over $70,000 per employee—267 percent of the wages actually paid the average employee. One pharmaceutical company, Pfizer, received a tax credit equivalent to over $150,000 per employee—amounting to 636 percent of the typical wage paid to its Puerto Rican workers.

Under current law, there is absolutely nothing illegal in these companies taking these huge tax credits. The wide disparity between the wages paid Puerto Rican employees and the tax credit claimed by the corporations is a clear sign that there is something wrong with the section 936 tax credit program. It is obvious to me that the supposed intent of section 936, increasing employment in Puerto Rico, has been subverted to the much less justifiable goal of avoiding corporate income tax for American corporations.

Over the past decades, several efforts were launched to try and bring the section 936 tax credit under control. Rules regulating the allocation of income derived from intangible assets were tightened, but to little avail. Additional loopholes were created, which allow companies to continue the long established practice of shifting income derived from intangible assets created on shore to Puerto Rico. The Treasury Department produced a proposal to reconfigure the section 936 credit as a wage based credit, but that proposal was killed. Over the 1980's the abuses of the program continued to grow, and corporations continued to reap billions of dollars in ill advised and inefficient tax credits.

President Clinton is to be commended for his proposal to limit the excesses which have become commonplace among section 936 companies. By capping the section 936 credit at a fixed percentage of the wages paid in the possession, the Clinton proposal at least eliminates many of the abuses we have witnessed in the program, and more closely ties the credit to its nominal purpsoe—to provide employment opportunities in U.S. possessions. The Clinton proposal raises nearly $7 billion over the next 5 years—nearly half of the total cost of the credit.

Unfortunately, the Senate Finance Committee saw fit to significantly soften the reform proposed by President Clinton and approved by the House of Representatives. The Senate Finance Committee provision raises far less revenue than the Clinton/House proposal, and significantly complicates the administration of the credit—a fact which I am certain will lead to more loopholes in the future.

I had considered offering the Clinton section 936 proposal as an alternative to the far inferior Senate Finance version. The Clinton proposal provides real reform, and reduces the section 936 credit significantly. If I thought it was in our best interests to continue this credit at all, I would support the Clinton proposal.

The time has come, however, to pull the plug on this corporate welfare program. At the same time we are being told we need to swallow significant cuts in Medicare and increases in taxation of Social Security benefits, at the same time we are being asked to raise the gas tax on all Americans, at the same time we are told we cannot raise enough money to establish enterprise zones in our troubled cities, we somehow find the funds to continue a multi-billion dollar tax credit of questionable merit and effectiveness, the prime beneficiaries of which are a small number of large, profitable drug companies.

Mr. President, an amendment to repeal section 936 could stand on its own merits. The continuation of this credit is simply bad public policy. My amendment today couples the repeal of this

wasteful tax loophole with some relief from the draconian Medicare cuts contained in the Senate Finance Committee bill. I urge my colleagues to vote in favor of this amendment.

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

The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Presiding Officer.

I say again, sir, in the bill before us, the benefits of the 936 program as it is known dates back to the 1920's. Our cut to 40 percent of the present level is over a 5-year period.

We cut in half the President's proposal and clearly anticipate the phasing out finally of this measure.

We are dealing with the economy of Puerto Rico, 3.6 million United States citizens who are not represented on this floor. It falls to the Committee on Finance, the chairman, the ranking member, to speak for them.

I say that an economy with 18 percent unemployment could not sustain this blow. It would be contrary to all our understandings of what our citizens are entitled to.

I ask unanimous consent to have printed in the RECORD at this point a very careful letter from Governor Rosselló, the Governor of Puerto Rico.

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

JUNE 23, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the community of 3.6 million United States citizens in Puerto Rico that lacks representation in the U.S. Senate, I wish to express profound gratitude for the leadership that you and the Finance Committee displayed in aiding the cause of Puerto Rico with respect to Section 936 of the Internal Revenue Code, in the Revenue Reconciliation Bill that has been reported to the Senate.

The Finance Committee's action constitutes a major step in the right direction * * * toward ensuring that Puerto Rico's share of the nation's sacrifice is fair and appropriate * * * and toward preserving our capacity to forge greater economic self-sufficiency.

We in Puerto Rico support the President's objectives, and are fully prepared to assume our proportionate share of the burden of deficit reduction. Indeed, we strongly endorse the President's specific proposal, including the rebuilding of our nation's infrastructure and the reform of the health care system. However, the President's proposal and the House-passed provision with respect to Section 936 would run counter to one of the President's principal goals—jobs for American citizens. Nowhere is the need for jobs greater than in Puerto Rico, where unemployment exceeds 18 percent—2½ times the national average, and where the proportion of families subsisting on poverty level incomes approaches 60 percent.

Far from addressing that need, the Administration and House-passed provision on Section 936 would actually cripple our island's capacity to attract—and even to retain—job-creating private sector investments. Absent the changes that you have crafted to Section 936, the jobs of many of the 105,000 Puerto Rico residents who are employed by Section 936 firms would be imperiled, causing grave harm to our economy. However, Section 936 can continue to be an effective economic incentive for Puerto Rico, if it remains as it has been constructed by the Finance Committee.

We emphasize that even as the Finance Committee has structured a more finely crafted tax incentive than the existing Section 936 provision, this change, nevertheless, would generate new federal revenues of $3.7 billion from the citizens of Puerto Rico. Any greater revenues extracted from Section 936 would jeopardize the essential balance between compensation and income that has been structured by the Committee. In order to maintain and attract both labor-intensive and high-technology, capital-intensive industries, it is critical that Section 936 retain these two components.

Moreover, retention of a viable income component to Section 936 is equally essential to protect the revenues of the Puerto Rico Treasury from fiscal collapse, and to preserve the important passive income provisions of Section 936 that permit the financing of projects throughout Puerto Rico and the Caribbean Basin. Without an income component, all of these benefits would be lost.

Finally, the Finance Committee has crafted a modification that is politically balanced. This November, the American citizens of Puerto Rico will participate in a plebiscite to express their preference with regard to the long-term political status of the Commonwealth. Any dismemberment of Section 936, or massive reduction in the ability of the Commonwealth to attract and retain jobs, would have a seriously disruptive effect on this plebiscite that would be both unpredictable and distorting. The provision that the Committee has crafted will avoid, to the extent possible, such disruption.

We stand ready to support the passage of this modification to Section 936 and urge you to reject changes in the Senate or in the House/Senate Conference Committee. We hope that others in the Senate and the House will see the need to treat the American citizens of Puerto Rico fairly and with the understanding of our need for economic development that you have demonstrated by your leadership on this issue.

Sincerely,

PEDRO ROSSELLÓ,
Governor of Puerto Rico.

Mr. MOYNIHAN. Mr. President, in a moment, I will make a point of order that the measure is not germane. But my distinguished friend and former chairman wishes to speak, as well, for 1 minute.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the Chair.

I find the proponents of this amendment to speak as if Puerto Rico is a foreign country of some kind, for whom we have no obligation. The chairman is right. These are American citizens. They fight in our wars, they die in our wars, and they get no representation here.

So what we tried to do, we tried to come up with a plan that is more or less an enterprise zone and said: Can we get people to invest in Puerto Rico and possibly save the rest of us from having to appropriate money to provide welfare or other benefits that we would not have to provide if jobs were provided?

And this section had worked.

I am tired of us dumping on the pharmaceutical companies as if they were some kind of Machiavellian monster. They are some of the most inventive, innovative companies we have, with a balance of trade that is surplus. They are the best in the world. They locate in Puerto Rico and provide some of the highest paying jobs in Puerto Rico, and we want to cut it off. I think it is a mistake.

I hope this amendment is defeated.

Mr. MOYNIHAN. I would add, in confirmation, that the per capita receipts of Federal aid in Puerto Rico is one-half that of the lowest other State.

Mr. President, I make a point of order, with the full understanding of my friend, the author and sponsor of the legislation, that under title III of the Congressional Budget Act, the pending amendment is not in order because it is not germane. It changes the Tax Code. As the Senator correctly says, it strikes a section of the code.

I do make that point of order, and I ask for the yeas and nays.

The PRESIDING OFFICER. The request for the yeas and nays by the Senator is for what purpose?

Mr. MOYNIHAN. I withdraw that request. I simply make the point of order.

Mr. BRYAN. Mr. President, I move to waive the Budget Act and would 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 vote will take place at the appropriate time when the votes begin.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to make a comment on an amendment adopted earlier. It is amendment No. 532, the Gorton amendment on aviation fuel. It was passed by unanimous consent.

Mr. President, I wish the RECORD to reflect that had I been here and a recorded vote occurred, I would have voted in the negative.

Mr. MOYNIHAN. I yield such time as the distinguished Senator from California has used off the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 552

(Purpose: To impose a gross sales limitation for agricultural payments)

AMENDMENT NO. 553

(Purpose: To amend title XVIII of the Social Security Act to increase the inpatient hospital deductible to $2,000 for any individual whose annual adjusted gross income equals or exceeds $100,000 ($125,000 in the case of an individual filing a joint return))

Mr. REID. Mr. President, I send two amendments to the desk and ask unanimous consent that they be reported en bloc.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendments numbered 552 and 553, en bloc.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 552

At the end of subtitle A of title I, add the following new section:

SEC. 1112. GROSS SALES LIMITATION FOR AGRICULTURAL PAYMENTS.

The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308-5) the following new section:

"SEC. 1001F. GROSS SALES LIMITATION.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, a person (as defined pursuant to section 1001(5)) who has an average amount of qualifying gross sales during the 5 preceding crop years in excess of $500,000, as determined by the Secretary, shall not be eligible to receive a payment described in paragraph (1) or (2) of section 1001.

"(b) DEFINITION OF QUALIFYING GROSS SALES.—For purposes of this section, the term 'qualifying gross sales' means—

"(1) if a majority of the annual income of the person is received from farming, ranching, and forestry operations, the gross sales from the farming, ranching, and forestry operations of the persons; and

"(2) if less than a majority of the annual income of the person is received from farming, ranching, and forestry operations, the gross sales of the person from all sources.".

AMENDMENT NO. 553

At the end of part I of subtitle A of title VII, add the following new section:

"SEC. 7109. INCREASE IN INPATIENT HOSPITAL DEDUCTIBLE FOR ANY INDIVIDUAL WHOSE ANNUAL ADJUSTED GROSS INCOME EQUALS OR EXCEEDS $100,000 ($125,000 IN THE CASE OF AN INDIVIDUAL FILING A JOINT RETURN).

(a) IN GENERAL.—Section 1813(b)(1) (42 U.S.C. 1395e(b)(1)) is amended—

(1) by striking "(1) The inpatient" and inserting "(1)(A) Except as provided in subparagraph (B), the inpatient";

(2) by adding at the end the following new subparagraph:

"(B) In the case of an individual who has adjusted gross income (within the meaning of section 62 of the Internal Revenue Code of 1986) equal to or exceeding $100,000 ($125,000, in the case of an individual filing a joint return under section 6013 of such Code) for a taxable year ending with or within a calendar year, the inpatient hospital deductible under this paragraph shall be $2,000 for the succeeding calendar year.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to inpatient hospital services furnished on or after January 1, 1994.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. REID. Mr. President, one amendment is on behalf of Senator BRYAN and myself. That amendment is to end agriculture subsidies to those farmers with over $500,000 in gross sales, average, over the last 5 years.

The other amendment is to increase the Medicare inpatient hospital deductible from $697 to $2,000 to individuals filing a joint return whose income equals or exceeds $125,000.

If adopted, my amendments to this bill will save about $1½ billion. Both amendments were an effort to means test Federal programs. It is about time Federal programs are designed to go to the people that need them.

For instance, one of my amendments would have discontinued agriculture subsidies to those farmers that have over $500,000 in gross sales per year. Farmers with operations of this size have average incomes of $621,000, according to USDA statistics.

My second amendment would ask those individuals receiving Medicare with incomes above $125,000 to pay more for a hospital stay. Currently, all these beneficiaries pay is $697 for a hospital stay, no matter what their income. My amendment would ask those individuals filing jointly that earn over $125,000 to contribute the first $2,000 to the hospital stay.

I brought these issues to the attention of the chairman of the Finance Committee, Senator MOYNIHAN, and the chairman of the Agriculture Committee, Senator LEAHY, and they have told me that these issues will be addressed in their committees.

The PRESIDING OFFICER. The Chair regrets to inform the Senator that the 2 minutes has to be equally divided. The Senator had 1 minute, which he has already used.

Mr. REID. That was not the unanimous consent agreement. The unanimous consent agreement was that I had 2 minutes.

The PRESIDING OFFICER. The Senator is correct. He shall not be penalized for the dialog that just took place.

Mr. REID. I now, therefore, Mr. President, withdraw these amendments, due to the time constraints we all have here and upon the statements of the two chairman indicating that they will review these in their full committees.

Mr. President, if the Congress is going to cut spending, means testing is the most equitable way to do it.

Mr. MOYNIHAN. I thank the distinguished Senator, and I absolutely agree.

The PRESIDING OFFICER. The Chair notes the amendments are withdrawn.

Who seeks recognition?

If the Chair may have the attention of Senators, under the previous order, the time has arrived for the votes to commence.

The first question is on the amendment numbered 543, offered by Senators BRYAN and REID.

Mr. SASSER addressed the Chair.

The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I am presently conferring with the distinguished ranking member in an effort to try to construct an effort to get some more amendments disposed of before we go to the votes. We are trying to prepare a list now.

I ask unanimous consent that the votes under the previous unanimous consent be deferred for no longer than 4 minutes.

Mr. DOMENICI. Mr. President, before the chairman does that, I wonder if I might make a point of order against the amendment that is first pending and get it in a position where we will be ready to vote on a motion to waive, if that is what Senator REID or Senator BRYAN wants.

Mr. BUMPERS. Mr. President, what was the unanimous-consent request of the Senator from Tennessee?

The PRESIDING OFFICER. The request was that the votes be deferred for 4 more minutes, and the Chair believes that that is the request pending.

The Senator from New Mexico apparently has objected for the moment.

Mr. DOMENICI. Yes, Mr. President. The pending amendment, the one that is on the top of the list, is not germane to the provisions of the bill. That is pursuant to 305(b)(2) of the Budget Act. I raise a point of order against it.

Mr. REID. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order against the pending amendment.

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. SASSER. Parliamentary inquiry, Mr. President, we may raise the point of order against the remaining amendments in succession as they come before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. SASSER. Mr. President, let me renew my unanimous-consent request and say to my friend from Oregon, I am trying to get another list of amendments, and his amendment is in that list.

The PRESIDING OFFICER. Did the Senator renew his request?

Mr. SASSER. I renew my request.

The PRESIDING OFFICER. Hearing no objection, the unanimous-consent request is agreed to.

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

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

Will the Senator from Tennessee withhold for just a moment so we can get order in the Chamber, please? If we can terminate the side conversations that are taking place, it would facilitate the votes that we have pending and permit the evening's work to move on.

The Senator from Tennessee is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that the following be the sequence of first-degree amendments to be debated immediately under the following time limitations. They are a DeConcini deficit reduction trust fund, 3 minutes; a Brown highway trust, 3 minutes; a Bumpers immunization, 3 minutes; a McCain hospital insurance trust fund, 3 minutes; a budget enforcement amendment by myself, 3 minutes; an amendment by Senator GRAMM, dealing with Gramm-Rudman-Hollings, 3 minutes; that the amendments be debated and laid aside until all have been debated and that after the votes stacked under the previous order the Senate begin voting back to back on, or in relation to, each amendment in order in which they were offered and that no other amendments be in order prior to their disposition.

Mr. DOMENICI. Reserving the right to object.

Mr. BUMPERS. Mr. President, reserving the right to object, I have two immunization amendments. They were originally just one that had to be severed because of a parliamentary problem. In the 3-minute debate that the Senator is offering me, I will describe both amendments. I have still a third amendment, which I think will be accepted.

Mr. SASSER. I thank the Senator.

Mr. DOMENICI. Did the unanimous-consent request include a prohibition against second-degree amendments on these?

Mr. SASSER. It did.

Mr. DOMENICI. I have no objection.

Mr. BUMPERS. Mr. President, further reserving the right to object, I want it fully understood now I am offering three amendments. I am accepting 3 minutes total debate time, but I am offering three amendments.

Mr. SASSER. The Senator may offer three amendments, but, as I understand it, under our unanimous consent, only one amendment will be voted on. The Senator says a second amendment might be accepted, and we will certainly try to accommodate the Senator on that. But with regard to the third amendment, it is not on our unanimous consent list.

Mr. BUMPERS. Mr. President, I say to the distinguished Senator from Tennessee that I have offered to debate two amendments, which I had to sever. I am offering to debate 3 minutes, which I had to sever. I am offering to debate 3 minutes and describe both amendments and call the second one up without debate and the third one up without debate.

Mr. SASSER. The Senator is certainly entitled to call them all up without debate. But they would not come in sequence with these amendments here.

Mr. BUMPERS. When the Senator said no other amendments would be in order, I wanted to make sure the unanimous consent understood that.

Mr. SASSER. After these amendments are disposed of, then amendments will be in order until they are exhausted.

Under the rules there may be no debate on some of them.

Mr. BUMPERS. That is fine.

The PRESIDING OFFICER. If we can have the attention of the Senators to my left, please? There is enough confusion in the Chamber without conversation going on on the side. If Senators will take their seats, it will facilitate the debates here.

The Senator from Tennessee has a request. Does the Senator from Tennessee want to repeat that unanimous-consent request? Or is the comment by the Senator from Arkansas sufficient to be included in the unanimous-consent request so the Chair may rule on it?

Mr. SASSER. I do not think there is really any need to include it in the unanimous-consent request. I think we have an understanding outside the unanimous-consent request, as I understand it.

Mr. DOMENICI. I understand it.

The PRESIDING OFFICER. Is the time to be equally divided on each of these amendments?

Mr. DOMENICI. It is.

Mr. SASSER. It is.

The PRESIDING OFFICER. If so, is there objection? Hearing none, the unanimous-consent request is agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator BROWN be allowed to go out of order and that he be followed then by Senator DECONCINI, and then we pick up the regular sequence. Senator DECONCINI is not in the Chamber at the moment. That might expedite matters.

So the understanding is Senator BROWN will go first—I want to be sure my friend from New Mexico understands this—then we come to Senator DECONCINI and then we go back to the regular sequence. That would pick up with BUMPERS and then alternate down from there.

Mr. DOMENICI. We have no objection to that.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to. The Senator from Colorado is recognized. If the Senator will suspend until we have order so the Senator can be heard.

The Senator from Colorado is recognized.

AMENDMENT NO. 549

(Purpose: To transfer the 4.3 cent deficit reduction rate to the highway trust fund or the airport and airway trust fund, respectively)

Mr. BROWN. Mr. President, I call up amendment No. 549.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 549.

Mr. BROWN. 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 620, strike lines 12 through 21, and insert the following:

(3) Section 9502(b)(3) is amended by inserting "and the deficit reduction rate" after "financing rate".

(4) Section 9503(b)(4)(B) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(5) Section 9503(c)(4)(D) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(6) Section 9503(c)(5)(B) is amended by inserting "and the deficit reduction rate under such section to the extent such rate does not exceed 4.3 cents per gallon" after "such section".

(7) Section 9503(c)(6)(D) is amended by inserting "and the deficit reduction rate to the extent such rate does not exceed 4.3 cents per gallon" after "financing rate".

(8) Section 9506(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

Mr. BROWN. Mr. President, this amendment is very straightforward, very simple. All it does is take the new revenue that comes with regard to transportation—that is the gasoline tax and other aviation taxes—and puts them in the trust funds. In other words, we follow the precedents that have long been followed in this Chamber and this country of having funds coming from taxes applied to fuels, going to the highway users trust fund or the aviation trust fund, as it has been done in the past. This simply says we will follow that same precedent in the future.

The issue is simple; it is basic; it does not change the deficit reduction numbers that are included in the package. It does not change the package in any

way, except that it reserves these revenues for use in the appropriate trust funds. I believe it is important, the President believes that it is important we properly service our infrastructure with regard to highways and transportation. If we are going to do that, it is vital the money be in the fund. That is what this amendment does.

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

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, I see no one wishing to speak in opposition to the Brown amendment. I am sure there will be opposition at the appropriate time when we get to a vote. But at this juncture, I see no Senator on the floor who wishes to speak in opposition to the Brown amendment.

So we are prepared to yield back all of our time if the Senator from Colorado is prepared to yield back his time.

Mr. BROWN. Mr. President, I yield back the remainder of my time.

Mr. SASSER. Mr. President, the next amendment in order will be—has Senator DECONCINI arrived in the Chamber?

Mr. BROWN. Mr. President, 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. SASSER. Mr. President, the Senator from Arizona [Mr. DECONCINI] has not yet arrived in the Chamber. So I ask unanimous consent that Senator BUMPERS be allowed to proceed and that Senator DECONCINI fall in sequence when he arrives in the Chamber.

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

The Senator from Arkansas is recognized.

AMENDMENT NO. 545

(Purpose: To condition AFDC payments on the receipt of immunizations)

Mr. BUMPERS. Mr. President, I call up amendment No. 545.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 545.

Mr. BUMPERS. 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 389 insert the following prior to line 8.

SEC. 7803. STATE OPTION TO PROVIDE THAT CERTAIN PAYMENTS UNDER AFDC ARE CONDITIONED ON RECEIPT OF IMMUNIZATIONS.

(a) IN GENERAL.—Section 402 (42 U.S.C. 602) is amended—

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) at the option of the State, provide that if a family receiving aid to families with dependent children for any month includes a child under the age of 6 who has not received appropriate immunizations (as determined by the State), the State will take actions to encourage the timely immunization of such child including, but not limited to, reducing the total benefits received by such family for such month by all or a portion of the benefits allocable to the parent or guardian of such child and either—

"(A) placing all or a portion of such amount in an account until the family demonstrates to the State that such child has been appropriately immunized; or

"(B) using all or a portion of such amount to provide services to such family intended to ensure that such child receives appropriate immunizations.".

(b) STATE PROGRAMS TO ENCOURAGE APPROPRIATE IMMUNIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this subsection as the "Secondary") shall provide for the establishment of programs intended to ensure the appropriate immunization of children to be operated in the State electing to take actions to encourage the timely immunization of children described in section 402(a)(46) of the Social Security Act.

(2) PAYMENTS TO STATES AND LIMITS ON FUNDING.—

(A) PAYMENTS TO STATES.—Except as provided in subparagraph (B), the Secretary shall pay to each State conducting a program under this subsection for each quarter in which such program is conducted an amount equal such State's Federal percentage (as determined under section 403(a) of the Social Security Act) of the expenditures incurred by such State during such quarter in conducting such program.

(B) LIMITS ON FUNDING.—In conducting programs under this subsection, the Secretary shall limit the total amount of the Federal share of expenses incurred under title IV and section 1903 of the Social Security Act to no more than $250,000 for each State in any year.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall become effective on the date of the enactment of this Act.

Mr. BUMPERS. Mr. President, as I told the Senate a moment ago, I have two amendments. The first amendment permits, but does not require, States to allow a requirement that AFDC women have their children immunized. The State of Maryland has done a pilot program that is 4 months old. They have raised the immunization levels in Maryland from 50 to 90 percent.

There is not anything intrusive or abusive about it. I have been in this immunization business for 22 years. Since I have been in the U.S. Senate, we have gotten about $6 to $300 million a year, and immunization levels are right where they were 18 years ago.

If you are going to immunize children, you are going to have to use this kind of a stick. It is working in Maryland. It is working in New York in the WIC Program, and it gives the States the right to do the same thing.

The second amendment I will offer, which I will just call up, requires the pharmaceutical companies not to raise their rates for 5 years above CPI. It allows every State to buy vaccines at the national CDC price and the whole thing saves over $180 million over the next 5 years. I will be happy to yield to the Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague. I want to associate myself with the first Bumpers amendment as it relates to withholding portions of AFDC payment. I think the only way we are going to get the children of America immunized is to deal with the parent and cause the parent to react, as this amendment does, in the appropriate fashion to bring that child to a point of immunization.

I congratulate my colleague for offering this amendment. It is very appropriate.

Mr. BUMPERS. Mr. President, the third amendment, which I will describe briefly, provides a bonus to the States for so much per child over 50 percent. If they get up to 80 percent, they get more money; from 60 to 75, they get less. Britain has done this. It has been a fantastic success. I am telling you that with the AFDC amendment and the bonus amendment, 3 years from now you will see a dramatic reduction in the incidence of childhood diseases if we adopt those two amendments.

The PRESIDING OFFICER. All time has expired.

Mr. RIEGLE. Mr. President, all time has expired on one side of the amendment, I think.

Mr. SASSER. Mr. President, I yield such time as the opponents of the amendment have.

The PRESIDING OFFICER. The Chair will state that there is 1 minute 30 seconds for the opponents to use.

Mr. RIEGLE. I thank the Chair.

Mr. President, I will share that with the Senator from Massachusetts. Let me say on the first Bumpers amendment that it is not germane, and at the appropriate point I will raise the germaneness point of order.

The third amendment is acceptable to this Senator. That is on the bonus issue.

But the second one would do great damage to the package that has been developed in the Finance Committee on a bipartisan basis with the help of Senators CHAFEE, DANFORTH, DURENBERGER, Chairman MOYNIHAN, Senator BRADLEY, and others. That provision in the bill saves $48 million over 5 years. It provides immunization vaccines at a lower price to children who are in lower income situations, but not eligible for Medicaid. It is very important it stay intact.

It moves in the direction of what the President has laid out, but it has the support of the Finance Committee.

Mr. KENNEDY. Mr. President, I join Senator RIEGLE in opposition to this program. In the Finance Committee, there is a pilot program for five States.

This has only been in effect for 5 months. There is absolutely no evidence that across this country the clinics and the delivery systems are available to meet this kind of a requirement.

This compromise has been worked out in a bipartisan way in the Finance Committee, supported by the administration. It may very well be a good idea somewhere down the line. But there is absolutely no assurance that any AFDC parent who gets the notification is guaranteed that they are going to be able to get an immunization before they lose support for their children.

The way this is devised within the Finance Committee makes sound public policy sense. It makes good public health policy sense. The administration supports it. It had bipartisan support. I think that we should defer this kind of action and take the action that has been supported in the Finance Committee.

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

Mr. RIEGLE. Mr. President, parliamentary inquiry. Is this the appropriate point now for me to lodge the germaneness point with respect to the first Bumpers amendment?

The PRESIDING OFFICER. It is the appropriate time.

Mr. RIEGLE. Then, Mr. President, I raise a point of order that the Bumpers amendment, the first one, violates section 305(B) of the Congressional Budget Act of 1974.

Mr. BUMPERS. Mr. President, pursuant to section 904, I move that the Budget Act be waived in order to consider this amendment 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.

Mr. RIEGLE. Mr. President, not to take time that we do not have, but the third amendment I think is one that would not require a vote. I think clearly a vote is required on the second one.

Mr. BUMPERS. That is correct. I think the third amendment will be accepted. That is not yet the case, but I think it will be.

Mr. KENNEDY. Is there any time remaining?

The PRESIDING OFFICER. No. The Chair informs the Senator there is no more time for debate. The Chair is trying to resolve the sequence question.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. We had previously laid aside the DeConcini amendment in anticipation of Senator DECONCINI's arrival in the Chamber. He is here now and we will under my previous agreement turn to the DeConcini amendment.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. If the Senator would withhold for just 1 minute.

The Senator from Arizona is recognized.

AMENDMENT NO. 555

(Purpose: To create the Deficit Retirement Account)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask also unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. The clerk will report the amendment by number. The unanimous-consent request on reading is agreed to.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. SASSER, and Mr. FEINGOLD, proposes an amendment numbered 555.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE XIV—DEFICIT RETIREMENT ACCOUNT

SEC. 14001. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This part may be cited as the Deficit Retirement Account Act of 1993.

(b) PURPOSE.—The Congress declares that it is essential to guarantee that the net deficit reduction achieved by this Act is dedicated exclusively to reducing the deficit.

SEC. 14102. ESTABLISHMENT OF DEFICIT RETIREMENT ACCOUNT.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

1115. Deficit Retirement Account

(a) There is established a separate account in the Treasury, known as the Deficit Retirement Account, into which the deficit reduction achieved by the Omnibus Budget Reconciliation as called for in section 1115(b).

(b) Immediately upon enactment of the Omnibus Budget Reconciliation Act of 1993, any increases in total revenues resulting from enactment of such Act, shall be deposited by the Secretary of the Treasury on a daily basis into the Deficit Retirement Account. In addition, on a daily basis, the Secretary of the Treasury shall deposit to such account an amount equivalent to the sum of net deficit reduction achieved as a result of all spending reductions resulting from such Act. The cumulative Fiscal Year amounts for the combination of all revenue increases and spending reductions shall be equal to:

(1) for fiscal year 1994, $55,878,000,000;

(2) for fiscal year 1995, $71,320,000,000;

(3) for fiscal year 1996, $99,102,000,000;

(4) for fiscal year 1997, $133,737,000,000;

(5) for fiscal year 1998, $156,066,000,000.

(c) Notwithstanding any other provision of law, the amounts in the Deficit Retirement Account—

(1) shall not be available for appropriation, obligation, expenditure, or transfer, except as specified in subsection (c)(2) below;

(2) shall be used exclusively to redeem maturing debt obligations of the Treasury of the United States held by foreign governments in the amounts specified for each fiscal year in subsection (b);

(3) shall be excluded from, and shall not be * * * into account for purposes of, any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1983 (2 U.S.C. 901–922).

(d) Establishment of and transfers to the Deficit Retirement Account shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993 and/or any other provision of law.

(b) LISTING OF THE ACCOUNT AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Deficit Retirement Account.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Deficit Retirement Account, including a separate statement of amounts in and Federal debt redeemed by that Account.".

Mr. DECONCINI. Mr. President, this is an amendment that insists that the new revenues in this reconciliation act shall be used for one purpose only. They will be set aside in a separate fund that cannot be used for appropriations or for any expenditures and has a trust obligation to be used for one purpose only, and that is to retire the debt of the U.S. Government.

That is doable by this fund, taking the revenues that are in this fund and going and purchasing the debt from the market daily or whenever the market is open to sell Treasury bills.

That is what this particular fund does. A retirement debt fund it is called, not a trust fund. Indeed, to me it will bring about some stability and demonstrate to the American public that whatever revenues are increased here are going to be used for debt reduction.

Mr. President, the amendment I offer today I offer on behalf of millions of taxpayers across this country who are being asked to make sacrifices in order to reduce the growing national debt.

My amendment would guarantee that the net deficit reduction required by this act be dedicated exclusively to reducing the debt.

These funds would be deposited in a deficit retirement account to be established within the Department of the Treasury that could only be used to purchase outstanding debt obligations of the Treasury of the United States held by foreign governments in the annual amounts specified in this bill.

This amendment specifies that these amounts are: First, for fiscal year 1994, $55.878 billion; second, for fiscal year 1995, $71.320 billion; third, for fiscal year 1996, $99.102 billion; fourth, for fiscal year 1997, $133.737 billion; and fifth, for fiscal year 1998, $156.066 billion.

The net result will be $516 billion in deficit reduction over the 5-year period.

None, I repeat none, of the revenues deposited in this account would be available for appropriation for new or additional spending programs.

To ensure that these funds are deposited in this deficit retirement account, this amendment: First, directs the Secretary of the Treasury to deposit, on a

daily basis, into this account any increases in total revenues resulting from enactment of the act. Second, it further directs the Secretary of the Treasury to deposit in this account, again on a daily basis, the amount equivalent to the sum of net deficit reduction achieved as a result of all spending reductions resulting from the act.

This amendment ensures that an actual transaction occur—a transaction where actual tax dollars are deposited every day into this account with the sole purpose of reducing the debt. This amendment will show the American public that their sacrifices will actually result in real deficit reduction.

THE BACKGROUND

Mr. President, this is not a new idea. It is not even a new proposal. I believe this proposal has merit. How can we ask the American people to sacrifice in order to reduce the debt if we don't do everything in our power to ensure that their sacrifices will result in real deficit reduction?

THE SPECIFICS

President Clinton's comprehensive 5-year proposal reduces the Federal debt by $516 billion in both tax increases and spending reductions. By creating a deficit retirement account we can ensure that new revenues and savings from spending reductions required by this bill would be used exactly for what they are intended—deficit reduction not additional Government spending.

PRESIDENT CLINTON'S CALL TO ARMS

President Clinton has asked the American people to answer the call to arms for shared sacrifice in combating our national debt. The American people have responded in kind indicating time and time again that they are willing to sacrifice for the future of their country and their children's futures if we are serious about tackling the deficit monster.

Mr. President, I would offer one caveat to the American people's willingness to accept the notion that there will no longer be the proverbial free lunch. In my home State of Arizona, I have spoken to many people who are willing to pay more now to ensure a better future, but they want to ensure that increased taxes and reduced Government spending are directed at deficit reduction.

CONCLUSION

The American people understand that the current budgetary system has built-in loopholes. They also understand that these loopholes are large enough to drive a truck through. Clearly, you cannot create a $4 trillion national debt without these loopholes.

I believe this amendment will close those loopholes and show the American people that we in Congress get it. If we really want to ensure deficit reduction then I urge my colleagues to support this amendment.

First, it requires that the Secretary of the Treasury deposit in the deficit retirement account on a daily basis any increases in total revenues resulting from enactment of this act; and an amount equivalent to the sum of the net deficit reduction resulting from enactment of this act.

Second, at the end of each of the 5 fiscal years covered by this act, the totals deposited into these accounts during the fiscal year must equal the total deficit amounts outlined in the Omnibus Reconciliation Act of 1993.

Third, the amounts in the deficit retirement account will be used exclusively to redeem maturing debt obligations of the Treasury of the United States held by foreign governments. These foreign debt obligations mature on Thursday of each week.

Fourth, the amounts in the deficit retirement account shall not be available for appropriation, obligation, expenditure, or transfer except as specified in this bill.

Fifth, the bill requires that the President report annually, including a separate statement of amounts in and Federal debt redeemed by the deficit retirement account.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the Senator for offering the amendment. The President also thanks the Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, $65 billion in this bill is dedicated to trust funds. I have never heard of anybody in budgeting who figured out a way to dedicate money to two trust funds. This $65 billion goes to existing trust funds. We have another trust fund, except we call it deficit reduction.

Frankly, my friend from Arizona is such a good friend of mine that I hate to call his amendment what I must, but it is an absolute sham. It does nothing. If the budget works, the taxes will go where they are supposed to go. If the budget does not work and we incur more deficits, then we are going to borrow the money to pay for it whether there is a trust fund or not.

So when the time comes, I will raise a point of order under the Budget Act.

Mr. GREGG. Will the Senator yield?

Mr. DOMENICI. I will be glad to yield.

Mr. GREGG. Is not the practical effect of this amendment that you have to forward borrow, you have to borrow the money now to pay for the money that is going into the trust fund, to pay for the activity that that money would have naturally paid for? So this actually aggravates the deficit. On its face, it must aggravate the deficit because you are going to have to borrow further in order to pay for expenditures you are going to incur in order to cover the money that goes into the trust fund. So the practical effect of this is that the deficit is going to be increased.

Mr. DOMENICI. The practical effect is whatever you put in the trust fund, if you need money to pay the bills, you are going to borrow the money. So it could clearly turn out the Senator's way. I think that is an excellent question.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, anybody who will read this will see that these revenues are deposited into this fund. You do not borrow anything. Let me just read it: "None of the funds in this act shall be available for appropriation, obligation, or transfer except as specified. They shall be used exclusively to redeem maturing debt obligations of the Treasury of the United States."

My friend from New Mexico knows what a sham is all right, and he knows when the Republicans propose trust funds it is no sham. It is OK. But let the Democrats do so and all of a sudden it is a sham.

The PRESIDING OFFICER. All time is used.

Mr. DECONCINI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I raise a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order has been raised based on germaneness.

Mr. DECONCINI. Mr. President, I move to waive the germaneness rule of the Budget Act.

The PRESIDING OFFICER. The motion to waive the Budget Act has been made.

Mr. DECONCINI. 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 vote will occur on the motion to waive the Budget Act.

Who yields time?

The next amendment in order is the McCain amendment. The Senator from Arizona is recognized.

AMENDMENT NO. 519

(Purpose: To restore to the Social Security trust funds the revenues resulting from the aggregate increase in tax liabilities attributable to the amendments made to section 86 of the Internal Revenue Code of 1986)

Mr. MCCAIN. Mr. President, I will try not to take but 3 minutes. The amendment dictates that all funds that are

collected from this increase in taxes on Social Security——

The PRESIDING OFFICER. The Senator must, if I may remind him, send the amendment to the desk.

Mr. McCAIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The 3 minutes is equally divided.

Mr. McCAIN. Mr. President, I call up amendment 519 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself and Mr. BROWN, proposes an amendment numbered 519.

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 amendment is as follows:

Strike subsection (c) of section 8215.

Mr. McCAIN. Mr. President, the amendment requires that moneys raised as a result of the increase in Social Security taxes be——

The PRESIDING OFFICER. The Senator will suspend. The Senator is entitled to be heard. Please clear conversations out of the well and take your seats. It is very difficult to be heard.

The Senator from Arizona.

Mr. McCAIN. I thank the Chair.

Mr. President, the amendment requires that the Social Security taxes that are collected as a result of the passage of this legislation, rather than being diverted for any other use, must be placed in the Social Security trust fund.

Mr. President, the Social Security trust fund in 1983 was hemorrhaging in the amount of $1 million a day.

The fact is that the Social Security trust fund in the view of many experts is by no means sound. We made a deal with the people of this country, the senior citizens of this country, in 1983, in return for raising their taxes, we would ensure the solvency of the Social Security trust fund. We are breaking that deal we made with them as we speak. These funds should and must go in order to make sure that the Social Security trust fund is solvent well into the next century. We have no confidence of that at this time. Instead, we are now raising the Social Security taxes on the American people and diverting them for other uses. In my view, that is not acceptable and this amendment will correct that inequity.

I reserve the remainder of my time.

Mr. MITCHELL. Mr. President, this is a thinly disguised attempt to kill this whole bill. Under the law, a change in the Social Security trust fund provision, the OASDI trust fund, if included in the reconciliation bill, renders the entire bill subject to a point of order.

This amendment has nothing to do with the Social Security Act; it has to do with trying to kill this bill by making it subject to a point of order.

The fact is that the trust fund that will be insolvent in a few years is the hospital insurance trust fund, the Medicare trust fund, and it is to that trust fund which the funds are directed under the bill.

This amendment would remove them and put them into the retirement and disability trust fund which is not on the verge of insolvency and in the process subject the entire bill to a point of order.

This amendment has one purpose and one purpose only, to defeat the overall reconciliation bill.

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

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 21 seconds remaining.

Mr. McCAIN. This amendment is not an attempt to do anything except to preserve the solvency of the Social Security trust fund and preserve the commitment that we made to all the Americans that contributed to the Social Security trust fund, are contributing, and will need to draw from it in the future. If there are problems with the hospital trust fund, let us fix it. Let us not break and destroy the Social Security trust fund in order to fix another fund that is broken.

Mr. MITCHELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 19 seconds remaining.

Mr. MITCHELL. I yield to the Senator from West Virginia.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the majority leader.

Mr. President, I will say to my colleagues on this side of the aisle that I hope they heard the words of the majority leader very, very clearly. In spite of what the Senator from Arizona has said, this is an absolute bill killer. It is intended for no other reason. It is subjected to a point of order, and I hope all of my colleagues are listening and will not be for one moment fooled by the purpose of this amendment, that they will defeat the amendment presented by the Senator from Arizona.

Mr. MITCHELL. Mr. President, is it in order now to make a motion to table the McCain amendment?

The PRESIDING OFFICER. The motion to table is appropriate at this time. If a vote is ordered, it would be taken up at the appropriate time in sequence.

Mr. MITCHELL. Mr. President, I move to table the McCain amendment 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.

AMENDMENT NO. 556

(Purpose: To extend and strengthen the Budget Enforcement Act of 1990)

Mr. SASSER. 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 Tennessee [Mr. SASSER], for himself, Mr. MITCHELL, and Mr. DODD, proposes an amendment numbered 556.

Mr. SASSER. 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 the bill, insert the following new title:

TITLE XIV—ENFORCEMENT PROCEDURES.

Part A—Extension of Budget Enforcement

SEC. 14001. PURPOSE.

The Congress declares that it is essential to—

(1) preserve the deficit reduction achieved by this Act;

(2) extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974;

(3) extend the pay-as-you-go enforcement system; and

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus achieved by this Act and created under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14002. DISCRETIONARY SPENDING LIMITS.

(a) DEFINITION OF DISCRETIONARY SPENDING LIMIT.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (D) by striking the word "and"; and

(2) by inserting after subparagraph (E) the following:

"and

"(F) with respect to fiscal years 1996, 1997, and 1998, for the discretionary category, the amounts set forth for those years in section 12(b)(1) of House Concurrent Resolution 64 (One Hundred Third Congress);".

(b) POINT OF ORDER IN THE SENATE.—Section 601(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.".

(c) CONFORMING AMENDMENTS.—(1) Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "FISCAL YEARS 1991-1995 ENFORCEMENT.—" and inserting "FISCAL YEARS 1991-1998 ENFORCEMENT.—";

(B) in subsection (b)(1)—

(i) in the matter before subparagraph (A), by—

(I) striking "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992,

1993, 1994, or 1995" and inserting "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995" and inserting "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1998";

(ii) in paragraph (1)(B), by inserting at the end thereof the following new clause:

"(iii) For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103-48."

(iii) in the matter before subparagraph (A) in paragraph (2) by—

(I) striking "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995" and inserting "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "for the fiscal year and each succeeding year through 1995," and inserting "for the fiscal year and each succeeding year through 1998,";

(iv) in paragraph (2)(D)(i), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year,";

(v) in paragraph (2)(E), by—

(I) striking the final word "and" in subparagraph (ii); and

(II) inserting before the final period the following:

"; and

"(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for any one fiscal year) equal to 0.1 percent of the adjusted discretionary spending limit on new budget authority for that fiscal year"; and

(vi) in paragraph (2)(F), by inserting immediately before the final period the following:", and not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for the fiscal year in fiscal year 1996, 1997, or 1998".

(2) REPORTS.—Sections 254(d)(2) and 254(g)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 are each amended by striking "1995" and inserting "1998".

(3) EXPIRATION.—(A) Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, sections 250, 251, 252, and 254 through 258C of that Act shall expire on September 30, 1998.

(B) Section 607 of the Congressional Budget Act of 1974 is amended by striking "shall apply to fiscal years 1991 to 1995" and inserting "shall apply to fiscal years 1991 to 1998".

SEC. 14003. ENFORCING PAY-AS-YOU-GO.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking "FISCAL YEARS 1992-1995 ENFORCEMENT." and inserting "FISCAL YEARS 1992-1998 ENFORCEMENT.";

(2) in subsection (d), by striking "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995" both places that it appears and inserting "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998" both places; and

(3) in subsection (e), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year from 1991 through 1998,".

(b) Section 254(g)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "1998".

(c) Upon enactment of this Act, the Director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.

SEC. 14004. EXERCISE OF RULE-MAKING POWERS.

The Congress enacts the provisions of this part—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such these provisions should be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

Mr. SASSER. Mr. President, the purpose of this amendment is simply to lock in the domestic discretionary savings and also will lock in the pay-as-you-go savings that we have achieved here through reconciliation.

First, through sequesters and points of order, the amendment will continue the controls enacted in the 1990 budget agreement on the discretionary spending accounts. There will be one cap, and one cap alone on all discretionary spending.

Second, the amendment extends the so-called pay-go. The pay-go will ensure that new entitlement and tax legislation will be deficit neutral. As we saw in the appropriations cap, pay-go will also be enforced through sequestration.

Third, and last, the amendment adjusts the balances under the pay-go to assure that any savings achieved in reconciliation cannot be spent.

So, in essence, what this amendment does is simply preserve the savings that we say we are going to make under reconciliation. We throw out a lasso and get the discretionary accounts that move through the Appropriations Committee and place a discretionary cap over those so that we can indeed achieve the over $500 billion in savings that we are promising.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, might I ask the chairman a question?

The Nunn-Domenici amendment phases in with an amendment of the type that the Senator has. I gather that just as the Senator's amendment is a subject to a point of order, that he intends to raise the point of order again on the Domenici-Nunn amendment. Is that correct?

Mr. SASSER. That is my present intention, I say to my friend from New Mexico. If I did not raise a point of order on the Domenici-Nunn amendment, others would on my side.

Mr. DOMENICI. Mr. President, could I ask a question? In other words, we are going to be treated with a different requirement in terms of votes unless we make a point of order against yours even though we are talking about the same kind of budget restraint?

Mr. SASSER. I think there is a substantial difference because what we are talking about doing here is putting a cap on all discretionary accounts. What the Nunn-Domenici amendment seeks to do, as I understand it, is reinstitute the walls between defense, domestic, and foreign aid spending—have three caps.

Mr. DOMENICI. Might I ask the chairman? We currently operate with one major cap if the law is not changed for the next 3 years—2 years.

Mr. SASSER. Unless the law is changed——

The PRESIDING OFFICER. Under the agreement, the time has expired.

Mr. DOMENICI. Mr. President, I can reserve the opportunity to make a point of order to just prior to the vote, can I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I reserve that right.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas [Mr. GRAMM] is recognized.

AMENDMENT NO. 557

(Purpose: To guarantee deficit reduction)

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 557.

Mr. GRAMM. 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 appropriate place, insert the following:

SEC. . RESTORATION OF MAXIMUM DEFICIT AMOUNTS.

(a) MAXIMUM DEFICIT AMOUNTS.—

(1) AMOUNTS.—Section 601(a)(1) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) with respect to fiscal year 1994, $253,800,000,000;

"(E) with respect to fiscal year 1995, $236,900,000,000;

"(F) with respect to fiscal year 1996, $205,000,000,000;

"(G) with respect to fiscal year 1997, $192,600,000,000; and

"(H) with respect to fiscal year 1998, $201,900,000,000.".

(2) DEFINITION.—(A) Section 250(c)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(i) striking "terms 'maximum deficit amount' and" and inserting "term"; and

(ii) striking "sections 251 and 252" and inserting "section 251".

(B) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following:

"(22)(A) The term 'maximum deficit amount' means the amount set forth in section 601(c)(1) of the Congressional Budget Act of 1974.

"(B) For purposes of this paragraph, the term 'deficit' means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. In calculating the deficit for purposes of section 253 of such Act (notwithstanding section 710(a) of the Social Security Act or any other provision of law), for any fiscal year, the receipts of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays and total revenues and the amounts of budget authority and outlays set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality.".

(3) NO MARGIN OR ADJUSTMENTS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "if it exceeds the margin";

(B) in subsection (b)—

(i) in paragraph (1) by inserting "and" after the semicolon;

(ii) in paragraph (2) by striking "; and" and inserting a period;

(iii) by striking paragraph (3) and the text that follows; and

(C) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(4) 60 VOTE POINT OF ORDER.—Section 904 of the Congressional Budget Act of 1974 is amended—

(A) in the second sentence of subsection (c) by striking "and 606(c)" and inserting "605(b), and 606(c)"; and

(B) in the third sentence of subsection (d) by striking "and 606(c)" and inserting "605(b), and 606(c)".

(5) ELIMINATION OF SOCIAL SECURITY DEFICIT.—Not later than October 1, 2000, Congress may adopt budget procedures for the elimination of the non-Social Security deficit by not later than September 30, 2005. The non-Social Security deficit shall be defined as the Federal budget deficit excluding the receipts and outlays of the Social Security Trust Fund.

(6) EXTENSION OF PROCEDURES AND POINTS OF ORDER.—The procedures and points of order provided in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 applicable to the enforcement of the maximum deficit amount for fiscal year 1993 set forth in section 601(a)(1) of the Congressional Budget Act of 1974 shall apply to the enforcement of the maximum deficit amount imposed by the amendment made by paragraph (1) as modified by this subsection and subsection (c).

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(i) LOOK-BACK SEQUESTER.—

"(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester on July 1 to eliminate the excess.

"(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

"(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

"(4) SEQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection.".

Mr. GRAMM. Mr. President, if you look at the Democratic budget which has now been adopted, you see that this budget promises the American people that the deficit in fiscal year 1994 will be $253.8 billion; in 1995, it will be $236.8 billion; in 1996, $205 billion; in 1997, $192.5 billion; then in 1998, it starts to go back up, at $201.9 billion.

The problem is there is no enforcement mechanism to see that these deficit targets are actually met. To show we mean what we say, I have sent an amendment to the desk that would reimpose the fixed targets of the Gramm-Rudman law to guarantee the deficit reduction claimed in the budget before us.

If we really mean it when we say we are going to achieve these levels of deficit reduction, then let us enforce it with the only mechanism that we have ever had that has truly reduced the deficit. I remind my colleagues in the 5 years before the Gramm-Rudman-Hollings law was repealed, that the deficit was reduced by 43 percent because we had a sequester process, and we had an enforcement mechanism.

What I suggest we do is put it back into place. This does not change the Clinton deficit targets.

It simply says: Let us mean it when we say it, and let us enforce it by making it the law of the land; and let us have a process that cuts spending to achieve those deficits, if we fail to do it.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, what we are talking about here is a reextension of Gramm-Rudman-Hollings. I am not sure Senator HOLLINGS would want his name associated with it now. But the history of Gramm-Rudman-Hollings—or Gramm-Rudman—has been a sorry one of unrealistic promises and inevitable failure.

The deficit, in 1986, when Gramm-Rudman was passed, stood at $221 billion. In the last year of Gramm-Rudman being effective, or in existence, we still had the same deficit of $221 billion. So there were no deficit reductions, and all it led to was episodes of trickery, budget dishonesty, of using exaggerated economic assumptions, and juggling the books. It went a long way, I think, toward discrediting the budget process here in the legislative branch of Government, operating in conjunction, in those days, with the executive branch.

I do not think we want to go down that road again, Mr. President. Fool me once, shame on you; fool me twice, shame on me. I do not think we are going to let ourselves be fooled twice on this Gramm-Rudman business.

How much time is remaining?

The PRESIDING OFFICER. All time has expired.

Mr. GRAMM. 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. SASSER. Parliamentary inquiry, Mr. President. Does not the question now recur on the Bryan amendment?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 543

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act offered by the Senator from Nevada. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

I also announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—52

Akaka	Gregg	Nickles
Biden	Harkin	Nunn
Boren	Hollings	Pell
Boxer	Inouye	Pryor
Bradley	Johnston	Reid
Bryan	Kennedy	Riegle
Bumpers	Kerry	Robb
Byrd	Kohl	Rockefeller
Coats	Lautenberg	Roth
Cohen	Levin	Sarbanes
Danforth	Lieberman	Sasser
Dodd	Lugar	Simon
Exon	Mathews	Smith
Feingold	Metzenbaum	Warner
Feinstein	Mikulski	Wellstone
Glenn	Mitchell	Wofford
Gorton	Moseley-Braun	
Graham	Moynihan	

NAYS—45

Baucus	DeConcini	Kassebaum
Bennett	Dole	Kempthorne
Bingaman	Domenici	Leahy
Bond	Dorgan	Lott
Breaux	Durenberger	Mack
Brown	Faircloth	McCain
Burns	Ford	McConnell
Campbell	Gramm	Murkowski
Chafee	Grassley	Packwood
Cochran	Hatch	Pressler
Conrad	Hatfield	Shelby
Coverdell	Heflin	Simpson
Craig	Helms	Stevens
D'Amato	Hutchison	Thurmond
Daschle	Jeffords	Wallop

NOT VOTING—3

Kerrey	Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 45, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The amendment contains additional subject matter not contained in this bill and falls for that reason.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). If the majority leader will suspend, the Senate is not in order.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, there will now be 12 votes in succession. They will be 10 minutes each.

I ask, I implore, Senators to remain in the Chamber out of courtesy to their colleagues so that we do not have to extend these votes. They are going to be cut off at 10 minutes.

Everybody should understand that now. That was previously agreed to by unanimous consent. So at no longer than 10 minutes, each of these votes will be cut off, and no Senator will be accommodated because of a request of on the way, or enroute, or on the subway, or some other such formulation.

These will be no more than 10 minutes. We can get through this civilly and with respect to our colleagues if we do it as promptly as possible and Senators remain in the Chamber.

Mr. President, I want to make that clear. There is no 5 minutes extra. These are 10 minute votes. Ten minutes means 10 minutes. Everybody should understand that. Every Senator is on notice. Every Senator should remain in the Chamber. There will be 12 votes in succession.

I thank my colleagues for their courtesy.

I ask unanimous consent that the Chair state, prior to each vote, the subject matter of the vote.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 544

Mr. SASSER. Mr. President, the next amendment, I believe, is the Domenici-Nunn amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. SASSER. Mr. President, I raise a point of order that the pending amendment violates section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, pursuant to the appropriate section of the Budget Act, I move to waive the point of order against the pending 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. Mr. President, would you state what the amendment is?

The PRESIDING OFFICER. The Chair will do so.

The question is on agreeing to the motion to waive the Budget Act to the Domenici-Nunn amendment numbered 544, which deals with defense international and domestic spending for the fiscal year 1995.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. Murray] is absent because of illness.

I further announce that if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—53

Bennett	Boren	Burns
Bingaman	Brown	Campbell
Bond	Bryan	Chafee
Coats	Gramm	Murkowski
Cochran	Grassley	Nickles
Cohen	Gregg	Nunn
Coverdell	Hatch	Packwood
Craig	Heflin	Pressler
D'Amato	Helms	Robb
Danforth	Hutchison	Roth
DeConcini	Kassebaum	Shelby
Dole	Kempthorne	Simpson
Domenici	Lieberman	Smith
Durenberger	Lott	Stevens
Faircloth	Lugar	Thurmond
Glenn	Mack	Wallop
Gorton	McCain	Warner
Graham	McConnell	

NAYS—45

Akaka	Ford	Metzenbaum
Baucus	Harkin	Mikulski
Biden	Hatfield	Mitchell
Boxer	Hollings	Moseley-Braun
Bradley	Inouye	Moynihan
Breaux	Jeffords	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Conrad	Kerrey	Riegle
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Sasser
Exon	Leahy	Simon
Feingold	Levin	Wellstone
Feinstein	Mathews	Wofford

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment has no budgetary effect and violates section 313(b)(1)(A) of the Budget Act, and falls for that reason.

The Senator from Tennessee is recognized.

AMENDMENT NO. 542

Mr. SASSER. Mr. President, I raise a point of order that the pending amendment violates section 313(b)(1)(A) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Pursuant to the appropriate section of the Budget Act, I move to waive the Budget Act.

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 occurs on the motion to waive section 313(b)(1)(A) of the Budget Act.

Under the unanimous-consent agreement, the Chair announces that the underlying amendment propounded by Mr. BRADLEY is to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills.

The clerk will call the roll.

Mr. BYRD. Mr. President, I ask the clerk will repeat the vote of each Senator.

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

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY], is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—53

Bennett	Graham	McCain
Biden	Gramm	McConnell
Bond	Grassley	Murkowski
Boren	Gregg	Nickles
Bradley	Hatch	Nunn
Brown	Helms	Packwood
Burns	Hollings	Pressler
Chafee	Hutchison	Robb
Coats	Kassebaum	Roth
Coverdell	Kempthorne	Shelby
Craig	Kennedy	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Dole	Lautenberg	Thurmond
Durenberger	Lieberman	Wallop
Faircloth	Lott	Warner
Feinstein	Lugar	Wofford
Gorton	Mack	

NAYS—45

Akaka	Domenici	Mathews
Baucus	Dorgan	Metzenbaum
Bingaman	Exon	Mikulski
Boxer	Feingold	Mitchell
Breaux	Ford	Moseley-Braun
Bryan	Glenn	Moynihan
Bumpers	Harkin	Pell
Byrd	Hatfield	Pryor
Campbell	Heflin	Reid
Cochran	Inouye	Riegle
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Sarbanes
Daschle	Kerrey	Sasser
DeConcini	Leahy	Stevens
Dodd	Levin	Wellstone

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The amendment offered by the Senator from New Jersey has no budgetary effect and violates section 313 of the congressional Budget Act. The amendment falls for that reason.

Mr. MITCHELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 547

Mr. MITCHELL. Mr. President, it is my understanding that the next amendment is the McConnell Amendment, and I will at the appropriate time move to table that amendment and ask for the yeas and nays.

Mr. McCONNELL. 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.

Mr. MITCHELL. Mr. President, I move to table the McConnell amendment, and I ask for the yeas and nays on the motion to table.

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 McConnell amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—55

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

NAYS—43

Bennett	Faircloth	McConnell
Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Chafee	Gregg	Pressler
Coats	Hatch	Roth
Cochran	Hatfield	Shelby
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

NOT VOTING—2

Murray	Specter

So the motion to table the amendment (No. 547) was agreed to.

AMENDMENT NO. 548

Mr. ROCKEFELLER. Mr. President, I raise a point of order that the pending amendment violates section 310(d)(2) of the Congressional Budget Act.

Mr. GRAHAM. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive title III of the act for the consideration of my 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.

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

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The yeas and nays resulted—yeas 15, nays 83, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—15

Bumpers	Heflin	Mikulski
DeConcini	Jeffords	Moseley-Braun
Feingold	Lautenberg	Pell
Graham	Mathews	Simon
Harkin	Metzenbaum	Wellstone

NAYS—83

Akaka	Dorgan	Lugar
Baucus	Durenberger	Mack
Bennett	Exon	McCain
Biden	Faircloth	McConnell
Bingaman	Feinstein	Mitchell
Bond	Ford	Moynihan
Boren	Glenn	Murkowski
Boxer	Gorton	Nickles
Bradley	Gramm	Nunn
Breaux	Grassley	Packwood
Brown	Gregg	Pressler
Bryan	Hatch	Pryor
Burns	Hatfield	Reid
Byrd	Helms	Riegle
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inouye	Roth
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Simpson
Craig	Kerrey	Smith
D'Amato	Kerry	Stevens
Danforth	Kohl	Thurmond
Daschle	Leahy	Wallop
Dodd	Levin	Warner
Dole	Lieberman	Wofford
Domenici	Lott	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 15, the nays are 83. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment would have the effect of decreasing the net level of deficit reduction in the jurisdiction of the Committee on Finance, below the level of such deficit reduction in that jurisdiction as set forth in the concurrent resolution on the budget, in violation of section 310(d)(2) of the congressional Budget Act of 1974.

The point of order is sustained, and the amendment fails.

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

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

The motion to lay on the table was agreed to.

DANFORTH POINT OF ORDER

The PRESIDING OFFICER. The next vote is on a motion to waive the budget act. The motion was made in response to a point of order made by Senator DANFORTH against page 13, lines 15 through 25, on the grounds that those provisions violate section 313 of the budget act.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 38, nays 60, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—38

Akaka	Ford	Mitchell
Baucus	Glenn	Moseley-Braun
Bingaman	Graham	Pell
Boxer	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Campbell	Jeffords	Robb
Cohen	Johnston	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Leahy	Simon
Dodd	Levin	Wellstone
Feingold	Mathews	Wofford
Feinstein	Mikulski	

NAYS—60

Bennett	Durenberger	Lugar
Biden	Exon	Mack
Bond	Faircloth	McCain
Boren	Gorton	McConnell
Bradley	Gramm	Metzenbaum
Breaux	Grassley	Moynihan
Brown	Gregg	Murkowski
Burns	Harkin	Nickles
Byrd	Hatch	Nunn
Chafee	Hatfield	Packwood
Coats	Helms	Pressler
Cochran	Hutchison	Rockefeller
Conrad	Kassebaum	Roth
Coverdell	Kempthorne	Shelby
Craig	Kennedy	Simpson
D'Amato	Kerrey	Smith
Danforth	Kerry	Stevens
Dole	Lautenberg	Thurmond
Domenici	Lieberman	Wallop
Dorgan	Lott	Warner

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The provision on page 13, lines 15 through 25, has no budgetary effect and thus violates section 313(b)(1)(A) of the Budget Act. The point of order is sustained and the provision is stricken from the bill.

AMENDMENT NO. 551

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act for the consideration of amendment numbered 551 offered by Senators BRYAN and REID.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 20, nays 78, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—20

Biden	Faircloth	Lott
Bond	Feingold	Mathews
Brown	Glenn	Metzenbaum
Bryan	Hollings	Nickles
DeConcini	Kassebaum	Reid
Dorgan	Leahy	Sasser
Exon	Levin	

NAYS—78

Akaka	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Gorton	Mitchell
Bingaman	Graham	Moseley-Braun
Boren	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Gregg	Nunn
Breaux	Harkin	Packwood
Bumpers	Hatch	Pell
Burns	Hatfield	Pressler
Byrd	Heflin	Pryor
Campbell	Helms	Riegle
Chafee	Hutchison	Robb
Coats	Inouye	Rockefeller
Cochran	Jeffords	Roth
Cohen	Johnston	Sarbanes
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Simon
Craig	Kerrey	Simpson
D'Amato	Kerry	Smith
Danforth	Kohl	Stevens
Daschle	Lautenberg	Thurmond
Dodd	Lieberman	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Durenberger	McCain	Wofford

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 20, the nays are 78. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment is nongermane and falls for that reason.

AMENDMENT NO. 549

The PRESIDING OFFICER. The question occurs on the Brown amendment No. 549. The yeas and nays have been ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I understand this amendment is acceptable to the majority and I ask unanimous consent to vitiate the request for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, this amendment puts it all in, the gasoline tax, into the highway trust fund. I do object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. SASSER. It is my understanding that the amendment offered by the Senator from Colorado simply puts the funds that are collected into the highway trust fund, into the appropriate trust funds.

Mr. CHAFEE. It takes it from the general—money that was going into the general funds to pay for general purposes of the country and puts it into a restricted fund where it is going to be appropriated out solely for highways. We have already done that in the bill. There was a 2.5 cent gasoline tax that has been going into the general fund. That is now diverted to the highway trust fund.

The PRESIDING OFFICER. The Chair will remind Senators debate is not in order.

Is there an objection to the request made by the Senator from Colorado?

Mr. CHAFEE. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

Mr. BENNETT. Mr. President, what is the issue? Are we voting up or down or voting on a motion to table? What is the issue?

The PRESIDING OFFICER. The question occurs on the Brown amendment No. 549. The yeas and nays have been ordered on the amendment.

Mr. BENNETT. Thank you.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—66

Baucus	Danforth	Jeffords
Bennett	Daschle	Kassebaum
Bingaman	Dole	Kempthorne
Bond	Domenici	Kerrey
Boren	Dorgan	Kohl
Brown	Durenberger	Lautenberg
Bryan	Exon	Levin
Bumpers	Faircloth	Lieberman
Burns	Gorton	Lott
Byrd	Gramm	Lugar
Campbell	Grassley	Mack
Coats	Gregg	McCain
Cochran	Harkin	McConnell
Cohen	Hatch	Mitchell
Conrad	Hatfield	Murkowski
Coverdell	Helms	Nickles
Craig	Hollings	Nunn
D'Amato	Hutchison	Pressler

Pryor	Sasser	Thurmond
Reid	Simpson	Wallop
Riegle	Smith	Warner
Sarbanes	Stevens	Wofford

NAYS—32

Akaka	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Boxer	Heflin	Packwood
Bradley	Inouye	Pell
Breaux	Johnston	Robb
Chafee	Kennedy	Rockefeller
DeConcini	Kerry	Roth
Dodd	Leahy	Shelby
Feingold	Mathews	Simon
Feinstein	Metzenbaum	Wellstone
Ford	Mikulski	

NOT VOTING—2

Murray	Specter

AMENDMENT NO. 545

The PRESIDING OFFICER. The question is on agreeing on the motion to waive the Budget Act for consideration of the Bumpers amendment numbered 545. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 69, nays 29, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—69

Baucus	Ford	Lott
Bennett	Gorton	Lugar
Biden	Graham	Mack
Bingaman	Gramm	Mathews
Bond	Grassley	McCain
Boren	Gregg	McConnell
Brown	Harkin	Mikulski
Bryan	Hatch	Murkowski
Bumpers	Hatfield	Nickles
Burns	Heflin	Nunn
Coats	Helms	Packwood
Cochran	Hollings	Pressler
Cohen	Hutchison	Pryor
Conrad	Inouye	Reid
Coverdell	Johnston	Roth
Craig	Kassebaum	Sarbanes
D'Amato	Kempthorne	Shelby
Daschle	Kerrey	Simpson
Dole	Kerry	Smith
Domenici	Kohl	Stevens
Exon	Lautenberg	Thurmond
Faircloth	Leahy	Wallop
Feinstein	Levin	Warner

NAYS—29

Akaka	Dorgan	Moynihan
Boxer	Durenberger	Pell
Bradley	Feingold	Riegle
Breaux	Glenn	Robb
Byrd	Jeffords	Rockefeller
Campbell	Kennedy	Sasser
Chafee	Lieberman	Simon
Danforth	Metzenbaum	Wellstone
DeConcini	Mitchell	Wofford
Dodd	Moseley-Braun	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER (Mr. LEVIN). On this vote the yeas are 69, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

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

The amendment (No. 545) was agreed to.

AMENDMENT NO. 555

The PRESIDING OFFICER. The question now occurs on the motion to waive the Congressional Budget Act for consideration of the DeConcini amendment, No. 555.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY], is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—55

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

NAYS—43

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thurmond
Danforth	Kempthorne	Wallop
Dole	Lott	Warner
Domenici	Lugar	
Durenberger	Mack	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The amendment is not germane. It falls for that reason.

AMENDMENT NO. 519

The PRESIDING OFFICER. The question now occurs on the motion to table the McCain amendment No. 519. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—57

Akaka	Exon	Lieberman
Baucus	Feingold	Mathews
Biden	Feinstein	Metzenbaum
Bingaman	Ford	Mikulski
Boren	Glenn	Mitchell
Boxer	Graham	Moseley-Braun
Bradley	Harkin	Moynihan
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Campbell	Johnston	Riegle
Chafee	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
DeConcini	Kohl	Sasser
Dodd	Lautenberg	Simon
Dorgan	Leahy	Wellstone
Durenberger	Levin	Wofford

NAYS—41

Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Shelby
Coverdell	Hutchison	Simpson
Craig	Kassebaum	Smith
D'Amato	Kempthorne	Stevens
Danforth	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Faircloth	McCain	

NOT VOTING—2

Murray	Specter

So the motion to lay on the table the amendment (No. 519) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 556

The VICE PRESIDENT. The next question is on amendment No. 556 offered by Mr. SASSER and others.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate waive title III of the Congressional Budget Act for the consideration of this amendment, that the language of this amendment if offered as part of an amendment to H.R. 2264, and language on the same subject matter—that is extension of current budget process law—in the conference report on H.R. 2264.

The VICE PRESIDENT. Is there objection?

Mr. DOMENICI. Reserving right to object, Mr. President, I do not understand why we need unanimous consent. I have told the chairman we would accept the amendment so I am still willing to do that. Unless I understand some reason to have unanimous consent I am going to object. If you can convince me we can do something more by unanimous consent than by us accepting your amendment—we are saying we want to help you make the bill, as bad as we think it is, enforceable. We are willing to do that. We have talked about it on our side and that is ready.

What is the unanimous consent requirement? What is that about?

Mr. SASSER. The unanimous consent requirement, I am advised by counsel, is necessary if we are to protect the bill from a point of order later on down the line as we substitute the House bill for the Senate bill, and later as we go to conference and bring it back.

Mr. DOMENICI. I think on that score I am going to object. I do not understand it. Maybe you can convince me and I will let you have a unanimous consent later.

We will accept the amendment but I object to a unanimous consent.

The VICE PRESIDENT. Objection is heard.

Mr. SASSER. Then I move to waive title 3 of the Congressional Budget Act for consideration of this amendment, the language of this amendment if offered as part of an amendment to H.R. 2264, and language on the same subject matter—extension of current budget process law—in the conference report of H.R. 2264.

Mr. DOMENICI. You have so moved, so you are entitled to that, I assume. Could you give the Senator from New Mexico—I think that is debatable. I do not want to take any time.

Mr. SASSER. 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——

Mr. SASSER. Is there time?

The VICE PRESIDENT. The Senator from Tennessee is recognized.

Mr. SASSER. Is there time for debate on this particular issue?

The VICE PRESIDENT. The Chair will advise that there are 11 minutes remaining to the Senator from New Mexico for the purpose of general debate. The Senator from New Mexico is recognized if he wishes.

Mr. DOMENICI. I thank the Chair. Let me just say to my friend, I am not sure what this is all about but I was trying to be accommodating and I do not know whether I should just ask the Republican Senators to vote no, in which event you will lose because you need 60 votes. I might do that because it seems to me we are trying to be helpful but we do not understand. I do not want to waste the 11 minutes that we have, but I do think it is only fair that we find out what this is really about. Maybe it is serious. Maybe it is serious enough for us to defeat the amendment? Whichever you prefer.

I suggest the absence of a quorum. Perhaps we could take a minute or two and talk about it.

Mr. SASSER. That is satisfactory.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

Mr. SASSER. Mr. President, rather than delay our colleagues any more than is absolutely necessary, it has been suggested that we move forward and dispose of the next amendment, which is a Gramm amendment, and then return to the Sasser amendment, laying it aside.

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

AMENDMENT NO. 557

Mr. SASSER. Mr. President, I raise a point of order on the Gramm amendment, that it violates the pertinent section of the Congressional Budget Act of 1974.

Mr. GRAMM. Mr. President, I move to waive the relevant part of the Budget Act.

The PRESIDING OFFICER. The question is on the motion to waive the relevant part of the Congressional Budget Act.

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 waive the relevant part of the Congressional Budget Act. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—43

Bennett	Coats	D'Amato
Bond	Cochran	Danforth
Brown	Cohen	Dole
Burns	Coverdell	Domenici
Chafee	Craig	Durenberger
Faircloth	Kempthorne	Roth
Gorton	Lott	Shelby
Gramm	Lugar	Simpson
Grassley	Mack	Smith
Gregg	McCain	Stevens
Hatch	McConnell	Thurmond
Helms	Murkowski	Wallop
Hutchison	Nickles	Warner
Jeffords	Packwood	
Kassebaum	Pressler	

NAYS—55

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

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair would request of the Senator from Tennessee to specify the section of the Budget Act.

Mr. SASSER. Mr. President, let me clarify. Section 313(b)(1)(A) of the Budget Act of 1974.

The PRESIDING OFFICER. The amendment of the Senator from Texas has no budgetary effect, and for that reason violates section 313(b)(1)(A) of the Congressional Budget Act of 1974.

The point of order is sustained.

The amendment falls.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. As we are waiting, I wonder if I could make a parliamentary inquiry about what will be the status of how we will proceed after we vote on the one remaining amendment? Do we have word on that? Do we have other amendments that will be in order?

Mr. SASSER. Mr. President, I am sorry; I cannot respond to the Senator from Mississippi because I cannot hear him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LOTT. I was just inquiring about what will be the procedure once we dispose of this one remaining amendment that has been agreed to.

Mr. SASSER. Once we dispose of this last remaining amendment, the Sasser amendment, then may I inquire of the Chair how much time will be remaining on the bill at that juncture?

The PRESIDING OFFICER. There are 6 minutes remaining at this time.

Mr. SASSER. We are virtually out of time.

The 6 minutes is allocated to the minority, as I understand it. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SASSER. So the minority has 6 minutes. And with the exhaustion of that time, we are ready to go to final passage, unless there are individual amendments out there which Senators may call up. There will be no time for debate. They can simply call up the amendment, and we vote it up or down and that is it.

Now, in view of the lateness of the hour, it is now 1:20. We have to dispose of the Sasser amendment here, and I am hopeful we would not see any additional amendments emerging at this late hour.

I see the majority leader is on his feet, and I certainly want to yield to him.

Mr. DOMENICI. Mr. President, I understand that I have 6 minutes remaining. As I indicated before, I am trying to work out something on that other proposition.

Could I yield 2 minutes of my 6 minutes to Senator BURNS for purposes of discussing an amendment that he will either offer now or at some point? He may offer it when we are out of time, but he will have 2 minutes of my time to explain his amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. BURNS. I thank the Chair and I thank the Senator from New Mexico.

I will be offering an amendment. It is pretty simple. I ask my colleagues for support. It merely says that all language contained in this bill which raises revenue shall become effective no earlier than the date of the enactment. So in other words, I believe we just do not need retroactive taxes. If we are going to pass this bill, then they will go into effect only on enactment, whenever the President signs it into law. The effective date for individuals is July 1, 1993. They would like you to believe that is not retroactive, but it really becomes a retroactive rate.

So I will be offering that amendment upon the action taken on the amendment that is pending.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. SASSER. Mr. President, does the Senator want to offer his amendment at this time?

Mr. BURNS. If I would not be out of order, I would call it up.

Mr. SASSER. Well, I think we have laid aside the Sasser amendment, so——

Mr. BURNS. Then I will soon send it to the desk. I will ask to send it to the desk and ask for its immediate consideration and then ask for the yeas and nays.

Mr. President, I add that this amendment is offered in my name and Senator HUTCHISON of Texas, with cosponsors Senators DOLE, MCCONNELL, MACK, DURENBERGER, CRAIG, COATS, SMITH, GREGG, BROWN, LOTT, NICKLES, WARNER, THURMOND, HATFIELD, and ROTH of Delaware.

The PRESIDING OFFICER. The Sasser amendment is set aside.

AMENDMENT NO. 558

Mr. BURNS. 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 Montana [Mr. BURNS], for himself, Mrs. HUTCHISON, Mr. DOLE, Mr. MCCONNELL, Mr. MACK, Mr. DURENBERGER, Mr. GRAIG, Mr. COATS, Mr. SMITH, Mr. GREGG, Mr. BROWN, Mr. LOTT, Mr. NICKLES, Mr. WARNER, Mr. THURMOND, Mr. HATFIELD, and Mr. ROTH, proposes an amendment numbered 558.

At the appropriate place, add the following:

All changes in revenues contained in this bill which raise revenues, shall become effective no earlier than the date of enactment.

Mr. BURNS. 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. SASSER. Mr. President, I raise a point of order that the pending amendment violates section 310(d)(2) of the Congressional Budget Act.

Mr. BURNS. I make a motion to waive that 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 waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "Nay.".

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The yeas and nays resulted—yeas 46, nays 52, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—46

Bennett	Craig	Gregg
Bingaman	D'Amato	Hatch
Bond	Danforth	Hatfield
Brown	Dole	Helms
Burns	Domenici	Hutchison
Chafee	Durenberger	Jeffords
Coats	Faircloth	Kassebaum
Cochran	Gorton	Kempthorne
Cohen	Gramm	Lott
Coverdell	Grassley	Lugar
Mack	Packwood	Stevens
McCain	Pressler	Thurmond
McConnell	Roth	Wallop
Murkowski	Shelby	Warner
Nickles	Simpson	
Nunn	Smith	

NAYS—52

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Heflin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Riegle
Byrd	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Simon
Dodd	Leahy	Wellstone
Dorgan	Levin	Wofford
Exon	Lieberman	
Feingold	Mathews	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 46, 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 of the Senator from Montana will cause the deficit reduction attributable to the Finance Committee to fall below the deficit reduction that the Finance Committee was instructed to achieve by the concurrent resolution on the budget. The point of order is well taken. The amendment falls.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I have been conversing at some length here with the distinguished ranking member and with the distinguished minority leader and others on their side of the aisle.

I would like now once more to propound the unanimous-consent request.

Mr. DOMENICI. Mr. President, we are ready to move along and accept that.

I wonder, in the interest of making sure we are going to finish here tonight, if we could not just agree on—I understand the Senator knows which amendments are going to be offered on his side, and we know which ones are going to be offered on our side—when they are offered, we have no time left, or whatever we agree; those are the only amendments, at least, with that.

Mr. SASSER. That is correct with me.

Mr. DOMENICI. On our side we only have three: Senator PRESSLER, Senator JEFFORDS, and Senator HUTCHISON. They need 30 seconds, or no time; whatever is available.

Mr. SASSER. No time, I say to my friend.

Mr. DOMENICI. Maybe I have a little time.

Mr. SASSER. On our side, I say to my friend from New Mexico, we have a Bumpers amendment dealing with, again, immunization.

Mr. BUMPERS. Mr. President, would it be in order for me to offer the amendment now?

Mr. SASSER. There is also the possibility of a Lieberman amendment. And I know of no other amendments on our side.

I am now told Senator BUMPERS has two amendments, and one is acceptable, I am advised.

Mr. DOMENICI. All right.

Mr. SASSER. And then the possibility of a Lieberman amendment.

Mr. DOMENICI. I think the Lieberman amendment is going to be acceptable if the Pressler amendment is acceptable.

Could we get on the record now, by unanimous consent, that those are the amendments and there will be no others?

Mr. SASSER. That is satisfactory to me.

Mr. DOMENICI. I so propound a request.

The PRESIDING OFFICER. Is there objection?

Hearing none, without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, did the Chair rule?

Mr. FORD. Could we get the subject matter?

Mr. SASSER. Yes. The Chair has ruled that those amendments are the only ones that will be in order. In other words, the Chair has treated the Senator's request as a unanimous-consent request and, as I understand it, it has been ordered that there will be three amendments on the Republican side in order.

Mr. DOMENICI. Pressler on paperwork; Jeffords on an annual report as to how well we are doing on the deficit; and Senator HUTCHISON's 10-percent cut in administrative costs of Government.

Mr. SASSER. On our side, we have a Bumpers amendment on immunization; a second Bumpers amendment on immunization, which I am advised will probably be accepted; a Lieberman amendment dealing with mortgage revenue bonds. It is a sense-of-the-Senate amendment or sense-of-the-Senate resolution dealing with mortgage revenue bonds.

Mr. DOMENICI. That is it?

Mr. SASSER. That is it.

Mr. DOMENICI. Might I indicate to Senator LIEBERMAN, we think we are prepared to accept his, but we would like very much for you all to consider Senator PRESSLER's amendment. Maybe we could agree to both of them, at some point. That would help. It would help us, also.

Mr. SASSER. Let us consider those.

Mr. DOMENICI. Mr. President, I yield 30 seconds to Senator PACKWOOD, who has a motion to strike some extraneous material.

The PRESIDING OFFICER. The Senator is recognized.

POINT OF ORDER

Mr. PACKWOOD. Mr. President, I intend to raise a point of order under section 313(b)(1)(A) of the Budget Act, the so-called Byrd rule, that the following provisions in titles VII and VIII, the Finance Committee titles, are extraneous to the reconciliation bill because they produce no change in outlays or revenues:

Section 7801, dealing with immunizations;

Section 7803, provisions in the new Social Security title created by this section,

Sections 2106 and 2108(b)(2), which deal with State and Federal purchases of vaccines;

Section 8252(a)(2), (b), and (c), dealing with tax return preparer standards.

The PRESIDING OFFICER. The points of order raised by the Senator from Oregon are well taken.

Mr. SASSER. The Senator from Oregon has raised points of order. Have the points of order been raised?

The PRESIDING OFFICER. Is the Senator from Tennessee seeking to waive?

Mr. SASSER. Mr. President, 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. Mr. President, I ask unanimous consent that the pending matter be temporarily set aside and that we proceed for—how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Two minutes.

Mr. DOMENICI. I yield 30 seconds to Senator PRESSLER for his amendment.

AMENDMENT NO. 526

(Purpose: To eliminate increased paperwork burdens and unnecessary requirements on small businesses, and others, relating to compliance for certain payments to corporations)

Mr. PRESSLER. Mr. President, I call up amendment No. 526 and ask for its immediate consideration.

I have heard this will be an NFIB key vote for this year. I have a large number of cosponsors including Senators BURNS, NICKLES, D'AMATO, FAIRCLOTH, KEMPTHORNE, ROTH, COVERDELL, and WARNER. This amendment involves eliminating the requirement of small business owners to supply the IRS with hundreds of thousands of forms on services purchased from companies. The IRS does not have the equipment to absorb this information. This is a paperwork amendment. It eliminates the increased paperwork burdens on small business.

Mr. President, I urge the adoption of amendment 526.

The PRESIDING OFFICER. The clerk will report

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 526.

Beginning on page 660, line 12, strike all through page 661 line 3.

Mr. PRESSLER. Mr. President, I rise as the ranking member of the Senate Small Business Committee to offer an amendment designed to strike a seemingly small, innocent-sounding provision, hidden deep in this bill. If implemented, this section actually will unlash a tidal wave of costly paperwork for small business. I am talking about the service industry noncompliance initiative that, under section 8251 of this legislation, would greatly expand the burden of IRS Form 1099 by demanding that all businesses report payments made for services performed by corporations. If left in this bill, this provision will be known as the section 89 of the 1993 reconciliation bill.

Section 89 of the 1986 tax legislation imposed extensive reporting and auditing requirements on all businesses with respect to their health care plans. Few noticed this onerous section in the giant 1986 tax bill until later when the IRS began to notify businesses of their new responsibilities under the law. The imposed requirements would have been so costly for small businesses that many small companies would have been forced to eliminate their employee health care benefits altogether. Congress caught and eliminated that wasteful provision just in time, but it never should have been voted into law in the first place. We have an opportunity today to stop a similar addition to the Tax Code that, when implemented, will thrust a tremendous paperwork burden and cost upon small businesses.

Current law requires businesses to report any payments made for services to an unincorporated individual if the payments exceed $600 in 1 year. These payments are reported on IRS Form 1099. Businesses do not have to file a 1099 for payments made for goods. They also do not have to fill out a form for service payments made to corporations. This process is meant to cut back on tax fraud by service companies through unreported income. As a result of current law, businesses file one billion 1099 forms with the IRS every year. Again, section 8251 of this bill would require business to fill out 1099's not only for payments made for services by unincorporated individuals, but also for payments made for services by corporations.

This process would become very complicated. A business owner first would have to ask for a taxpayer identification number every time he or she purchased a service from a corporation. Then the business owner would have to separate out corporations that might provide similar services. For example, records of payments made to Federal

Express would have to be kept separately from records of payments made to United Parcel Service. However, it is not yet over for the business owner. He or she would then have to aggregate all payments for these services for each company and fill out a 1099 for any corporation paid more than $600 a year. This seems more like a accountant relief plan than a tax reporting plan.

What does the Government get for this extreme diligence? The answer is, not much. We are supposed to catch more tax cheats and raise more revenue. However, there are so many flaws in this plan that it renders the new 1099 form useless.

The system used to identify companies uses long numbers that are easy to fake and prone to miscopying. Federal agencies alone reported 150,000 incorrect numbers to the IRS in 1990. If Federal agencies cannot get the system right, who can? In addition, the IRS admits it will not be able to use this information for as long as 6 years. The New York Times has aptly described this initiative as a blizzard of paperwork and I ask unanimous consent to include that New York Times article in the RECORD immediately following my remarks.

As far as raising money, contrary to the administration's belief, Congress estimates that this provision will only bring in around $400 million. This new revenue for the Government, if indeed it is even realized, will cost small businesses millions of dollars in workhours and unrealized employment—workers that would have been hired with the money spent on compliance.

It is hard to believe that a section taking up less than a page in a 880-page bill could cause so much trouble with so little return, but it is true. The Senate needs to stop this now before any damage is done. Otherwise this issue will come back to haunt us in the future. In a tax bill that penalizes small business in so many ways, the Senate needs to finally take a stand for the small business owner and knock out this costly and misdirected paperwork burden. I urge adoption of my amendment to strike section 8251 from this bill.

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

[From the New York Times, June 21, 1993]

A PLAN TO CATCH TAX CHEATS IN A BLIZZARD OF PAPERWORK

(By Michael Wines)

Special to The New York Times

WASHINGTON, June 20.—The Internal Revenue Service has long suspected that lots of service businesses—taxi fleets, print shops, plumbers—are hiding income from the Government. But it has never had the resources to prove it.

Now the Clinton Administration, ever in search of revenue, has hit on a way to find out; deputize every company in America to track the money down.

Getting businesses to inform on their peers, to help the I.R.S. find tax cheats, is the aim of an obscure provision in the budget package that the House passed and the Senate will take up this week. It would require all businesses to report money they spend on one especially suspect group—service corporations—and to send annual reports to the I.R.S. In duplicate.

BILLIONS OF TRANSACTIONS

The I.R.S. says this would be a minimal inconvenience. Business groups, of course, disagree. They and a slew of tax experts say it would force companies to collate billions of transactions with millions of companies—airlines, hotels, taxi fleets, bicycle messengers, print shops, you name it. And much of the information, they say, would be useless.

That is because many of the nation's service companies—airlines and car-rental companies, for instance—are major-league corporations, rigorously audited by the Government and not suspected of squirreling away income. Millions of reports on such mammoth companies would effectively be tossed into the computer equivalent of a landfill.

And the data on small service businesses, where the problem lies, would provide such an incomplete picture of their income that only the clumsiest evaders would be caught, the critics say.

"The problems are legion," said Paula Porpelia, a Maryland accountant who sits on an I.R.S. advisory board that studied the proposal this spring and recommended that it be sent back for an overhaul. "There are tremendous problems. And nobody I know of, including the I.R.S., has a solution to those problems."

Not so, said John Devlin, the head of information reporting for the agency, who asserted that most companies would be able to comply with the new law with merely a few twists in their computer software. "We've done a lot of discussion with industry groups about this proposal," he said, "and after we explained it there has been an awful lot of support."

Neither side in this red-tape tug-of-war disagrees that the Government should do more to find small-business tax cheats, who thrive in the current tax-collecting regime. According to the General Accounting Office, small corporations—about 80 percent of the nation's business—voluntarily reported only 61 percent of the taxes they owed in 1987, down 25 percent from 1980. Among service companies, the compliance rate is even worse.

But how much money the proposal would raise is in dispute. The Administration estimated that the plan would bring in $6.1 billion through 1998. Congress has whittled that down to $400 million and change.

Opponents of the plan dubbed SINC, for the name Service Industry Non-Compliance, say its results would not begin to compensate for the costs, the inefficiencies, the bureaucratic pain and the indignity of dragooning business into snitching on one another. Among the critics are the I.R.S.'s advisory board; the Tax Executive Institute, an association of corporate officials who handle tax issues, and several small-business groups.

The I.R.S. concedes some of their points. But it says the mere spectacle of millions of reports on income flowing into Government computing centers will frighten many tax-skirting businesses into paying in full.

The I.R.S. anticipates "a substantial increase in voluntary compliance" by service companies once word of the new reporting plan gets around, an agency official said last week, and "most of the revenue projected comes from this anticipated increase."

The issue has received little publicity because almost no one knows about the proposal, which comprises four inscrutable sentences buried on page 252 of the budget bill.

SINC, A VERSION OF BIRP

But the I.R.S. and a core of supporters in Congress and the General Accounting Office have been considering the idea for several years. In fact, SINC is a whittled-down version of BIRP, or Business Income Reporting Plan, a proposal that would have extracted a broader range of financial data on all companies but was dismissed as too unwieldy.

By comparison, SINC would aim only at incorporated service companies, and even then only at companies that sell more than $600 in services to any one customer. There is no estimate on how much SINC would cost to administer, but an I.R.S. estimate put the BIRP program's cost at $1 billion a year.

Using a car service as an example, here is how the new program would work: Each time a business paid for a cab ride across town, its accountants would tally the payment and the cab company's Taxpayer Identification Number, or T.I.N., in its ledger.

At year's end, the T.I.N.'s that provided more than $600 in cab rides over 12 months would be culled out and recorded in duplicate on I.R.S. Form 1099. One 1099 would be mailed to the I.R.S. Another would go to the taxi company, largely as a friendly reminder that the Government has been told all about these particular rides.

MATCHING BY COMPUTER

For its part, the I.R.S. says, it would plug the data into its computers, and compare the income reported on the 1099's with the income that each service company declares on its tax return. When there is a mismatch between the two, bingo—a tax cheat has been flagged.

But then there is the time spent compiling and recording the data. For businesses, it means establishing a system to track purchases up to the $600 threshold. Companies would have to sort scads of invoices, for example, to separate purchases of goods, such as a copier, from purchases of services, such as a copier repair contract. Some might have to change their accounting systems to make the reporting in their fiscal years match the I.R.S.'s January-to-December tax year.

Businesses must also identify each transaction with the Taxpayer Identification Number of the company providing the service. And taxpayer numbers are long, easy to fake and notoriously prone to miscopying—so much so that Federal agencies alone reported 150,000 incorrect numbers to the I.R.S. in 1990. A 1992 survey turned up incorrect identification numbers in up to 77 percent of Federal contracts.

At a House committee hearing 11 days ago that touched on the SINC proposal, Robert H. Perlman, the vice president for tax matters at the Intel Corporation, the huge semiconductor maker, noted that his company alone did business with more than 38,000 other companies.

WOULD SEND THE WHOLE FILE

Whether those companies sell services of goods, are independent or incorporated, or are paid more or less than $600 is not a matter of prime concern to Intel. Rather than sort it all out, "We'd probably just send the whole file to the I.R.S." and let them crunch the numbers, Mr. Perlman said.

Mr. Devlin of the I.R.S. argues that critics have stretched the proposal out of proportion. He said that existing regulations already required every business in America to send a 1099 to the I.R.S. whenever it purchases more than $600 in services from an independent tradesman who is not incorporated—such as, say, a hack who owns his

own cab instead of working for a fleet owner. The pending proposal would simply extend the requirement to cover corporations.

The critics argue that the Government is updating a bad law, and to no good end. For one thing, they contend, the existing requirement is both little known and often ignored. Millions of such transactions go unreported each year, they say.

The I.R.S. insists that the new plan would result in substantially increased reporting, enabling it to match the 1099's with service companies' tax returns, just as the agency does now with 1099's involving interest dividends and stock sales.

And compliance with the reporting requirements would be no guarantee that the I.R.S. could catch all cheats, they say.

HOTEL AS AN EXAMPLE

Take, for example, companies whose employees patronize a certain hotel. Their forms would tell the I.R.S. how much money that hotel made from business clients. But it would say nothing about its income from tourist trade or other nonbusiness lodgers, much less whether any of that income is being hidden from the tax man. The total income reported on the 1099's would likely bear little resemblance to the income that the hotel would declare on its tax return. And the I.R.S. would still be left with no way to prove that the hotel earned more than it reported.

Since information from the largest businesses will be of little interest anyway, Mr. Devlin said the I.R.S. would like to exempt them from the reporting rule. But it may choose not to, as the businesses that have to prepare the 1099's would have no way of knowing who is exempt and who is not.

The I.R.S. has thought about that too, and suggested one solution. It's a toll-free hotline that businesses could call whenever they purchased a service, to determine whether the purchase required a SINC 1099, a Taxpayer Identification Number or anything else.

Mark Isakowitz, a lobbyist for the National Federation of Independent Business, who is fighting the SINC proposal, said that it was an intriguing notion, but that Government had done enough for small businesses already.

"I was thinking about how a Government hotline would work the other day," he said. "While I was standing in line at the post office."

Mr. DOMENICI. Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Senators will please take their seats.

Mr. SASSER. Mr. President, we have not seen a copy of the amendment. If we see a copy of it, perhaps we could expedite this matter and accept the amendment.

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

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

AMENDMENT NO. 526

Mr. SASSER. Mr. President, it appears we are not going to be able to work out an acceptance of the amendment offered by the Senator from South Dakota.

Mr. PRESSLER. 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 clerk will call the roll.

Mr. SASSER. Mr. President, I move to table the amendment of the Senator from South Dakota 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 of the Senator from Tennessee to lay on the table the amendment of the Senator from South Dakota, Mr. Pressler.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The result was announced, yeas 0, nays 98, as follows:

[Rollcall Vote No. 187 Leg.]

NAYS—98

Akaka	Faircloth	Mathews
Baucus	Feingold	McCain
Bennett	Feinstein	McConnell
Biden	Ford	Metzenbaum
Bingaman	Glenn	Mikulski
Bond	Gorton	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Bradley	Grassley	Murkowski
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Helms	Pryor
Campbell	Hollings	Reid
Chafee	Hutchison	Riegle
Coats	Inouye	Robb
Cochran	Jeffords	Rockefeller
Cohen	Johnston	Roth
Conrad	Kassebaum	Sarbanes
Coverdell	Kempthorne	Sasser
Craig	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Smith
DeConcini	Lautenberg	Stevens
Dodd	Leahy	Thurmond
Dole	Levin	Wallop
Domenici	Lieberman	Warner
Dorgan	Lott	Wellstone
Durenberger	Lugar	Wofford
Exon	Mack	

NOT VOTING—2

Murray	Specter

The motion to lay on the table the amendment (No. 526) was rejected.

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

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

The motion to lay on the table was agreed to.

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

The yeas and nays have been ordered.

Mr. DOMENICI. I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Without objection, the amendment is agreed to.

So the amendment (No. 526) was agreed to.

POINT OF ORDER

The PRESIDING OFFICER. The Chair is prepared at this time to rule on the points of order propounded by the Senator from Oregon.

The point of order against section 7801 is sustained.

The point of order against that part of section 7803 proposing a new section 2106 is sustained.

The point of order against section 8252 (a)(2), (b), and (c) is sustained.

These provisions are therefore stricken from the bill.

The point of order against that part of section 7803 proposing a new section 2108(b)(2) is not sustained.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 556

Mr. SASSER. Mr. President, at this point, I wish to renew my unanimous-consent request, as modified, that I have discussed at some length with the distinguished ranking member. I shall now propound the unanimous-consent request.

Mr. President, I ask unanimous consent that the Senate waive title III of the Congressional Budget Act for the consideration of this amendment, consideration of my amendment, the language of this amendment if offered as part of an amendment to H.R. 2264, and the language of this amendment in the conference report on H.R. 2264.

Mr. DOMENICI. Reserving the right to object, and I will not object, Mr. President, we are going to make it very clear, and I do in this statement, that we are waiving the point of order only on this exact language, and we reserve our rights to bring points of order against the conference report if it contains any language other than the language in this amendment, plus we reserve rights on any extraneous matters.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that I be able to withdraw my previously made motion to waive.

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

Mr. SASSER. Mr. President, is my amendment now the pending business?

The PRESIDING OFFICER. Yes, it is.

Mr. DOMENICI. We have no objection to the pending amendment, the process amendment of the chairman.

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

So the amendment (No. 556) was agreed to.

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

Mr. LEAHY. 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. Do I have a couple minutes remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 52 seconds.

Mr. DOMENICI. Senator JEFFORDS has an amendment he has been waiting to offer.

I yield 30 seconds to Senator JEFFORDS.

AMENDMENT NO. 505

(Purpose: To require that an annual Federal financial report be submitted to American citizens)

Mr. JEFFORDS. Mr. President, I will take little time. I call up amendment No. 505 and ask unanimous consent that Senators CONRAD and DORGAN be added as original cosponsors.

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

Mr. JEFFORDS. I ask immediate consideration of the amendment.

The PRESIDING OFFICER. The Clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. CONRAD, and Mr. DORGAN, proposes an amendment numbered 505.

Mr. JEFFORDS. 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 appropriate place, insert. AMER

SEC. . AMERICAN CITIZENS ANNUAL REPORT ACT.

(a) SHORT TITLE.—This section may be cited as the "American Citizens Annual Report Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Publicly owned corporations provide shareholders with an annual report on the financial status of the corporation.

(B) Americans are entitled to an annual report on the financial status of the Federal Government, as all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(C) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(D) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(E) The Chief Financial Officers Act is leading agencies to develop reliable and relevant financial information that is to be useful to the public including audited financial statements.

(F) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(G) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(2) PURPOSES.—The purposes of this section are to—

(A) provide the American taxpayer with an annual report on the financial status of the Federal Government;

(B) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(C) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the wellbeing of the Federal Government's finances as a part of their fiduciary responsibilities; and

(D) bring a public focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

(c) ANNUAL REPORT.—Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall distribute to all taxpayers described in paragraph (6) an annual report (referred to in this subsection as the 'annual report') containing——

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source, along with a brief description of those trends for the most recent year;

"(B) a comparison of the actual Federal spending and revenues by major category or source for the most recent fiscal year—

"(i) to the budget request estimates as submitted by the President for that year; and

"(ii) to the enacted budget,

along with notes explaining differences;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure recommended for inclusion by the advisory committee and deemed appropriate by the Director of the Office of Management and Budget.

"(2)(A) Preparation and content of the annual report shall be supervised and directed by the Director of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Director of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 9 members as follows:

"(i) 3 members to be appointed by the President.

"(ii) 2 members to be appointed by the majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The annual report shall contain a statement of assurance by the Director of the Office of Management and Budget and an audit opinion by the Comptroller General attesting to the reliability and relevant accuracy of the information contained in the annual report.

"(4) The annual report shall be prepared annually in a timely fashion after the close of each fiscal year. If the final annual report for a fiscal year is not available within 3 calendar months after the close of that fiscal year, a preliminary annual report shall be prepared and published within that period containing substantially all the material described in subparagraphs (A) and (B) of paragraph (1) and the final annual report shall be prepared and published as soon as possible thereafter.

"(5)(A) In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include on the front inside cover of such booklet of instructions (in addition to the information required in subsection (a) of section 7523 of the Internal Revenue Code of 1986) a summary of the annual report prepared by the Director.

"(B) The summary referred to in subparagraph (A) shall——

"(i) include the cumulative Federal debt at the end of each of the 10 preceding fiscal years expressed in total dollars per capita;

"(ii) include the Federal deficit for each of the 10 preceding years expressed in total dollars and dollars per capita; and

"(iii) be presented in a manner that is easily comprehensive to a taxpayer.

"(6)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the annual report described in this subsection and, in cases where a taxpayer requests more than one copy of the report, submits a processing fee (if any) as described in paragraph (7).

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(7) Notwithstanding any other provision of law, the Secretary of the Treasury may impose a processing fee or may accept contributions from corporations, foundations, and other private entities for distribution or preparation of the report, or both.".

(d) AUTHORIZATION.—For the purpose of carrying out the provisions of the amendment made by this section, there are authorized to be appropriated to the Secretary of the Treasury and the Director of the Office of Management and Budget $10,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995, 1996, 1997 and 1998. These amounts shall include any funds raised through the authority established in section 3513(d)(7) of title 31, United States Code, as added by this section.

Mr. SASSER. Mr. President, we are prepared to accept the amendment of the distinguished Senator. We have previously accepted this amendment, I think, on other matters that have come before the Senate, perhaps in the last budget resolution if I am not mistaken. So it is a meritorious amendment. We are prepared to accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 505) was agreed to.

Mr. SASSER. Now, Mr. President, I think the Senator from Connecticut wishes to offer an amendment.

AMENDMENT NO. 560

(Purpose: To express the sense of the Senate that the extension of qualified mortgage bonds be permanent)

Mr. LIEBERMAN. Mr. President, I have an amendment which I believe is acceptable to both sides. It has been accepted. I send it to the desk at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] for himself and Mr. CHAFEE, proposes an amendment numbered 560.

Mr. LIEBERMAN. 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 429, between lines 3 and 4, insert:

SEC. . SENSE OF THE SENATE REGARDING PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) FINDINGS.—The Senate finds that:

(1) Low and moderate income families often have difficulty in obtaining affordable mortgage financing.

(2) The mortgage revenue bond provisions of the Internal Revenue Code are an important tool in providing affordable financing for first-time home buyers.

(3) The tax-exempt status of mortgage revenue bonds have enabled State and local housing agencies to finance home mortgages for first-time buyers at rates below conventional market rates. This cost differential enables buyers, who otherwise might not be able to get mortgage financing, to obtain a loan at an affordable rate.

(4) Mortgage revenue bonds are targeted to families with the greatest need. In 1992, the average income of a mortgage revenue bond borrower was 74 percent of median income. Mortgage revenue bonds are only available to buyers who have not owned a home within the past 3 years, earn 115 percent or less of the applicable median income, and buy a principal residence that does not exceed 90 percent of the average home purchase price.

(5) Prior to its expiration in June, mortgage revenue bonds were the only Federal assistance targeted to first-time home buyers. During the past 15 years, mortgage revenue bonds have financed more than 2 million home purchases and accounted for 1 out of every 12 mortgages made to first-time buyers.

(6) In the last decade, mortgage revenue bonds have been scheduled to sunset 7 times, making administration and timing of bond issues extremely difficult and costly. The mortgage revenue bond program lapsed on June 30, underscoring the need for permanent extension.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that mortgage revenue bonds are a vital, proven tool for providing affordable home ownership opportunities for low- and moderate-income families and that Congress should adopt a permanent extension of the mortgage revenue bond program as part of the Internal Revenue Code.

Mr. LIEBERMAN. Mr. President, in one sentence, this amendment expresses the sense of the Senate that the mortgage revenue bond program tax-exempt status be permanently extended.

I ask its adoption.

Mr. SASSER. Mr. President, I believe this amendment is acceptable on both sides.

Mr. DOMENICI. We are prepared to accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 560) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I yield 30 seconds to the distinguished junior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 513

(Purpose: To reduce Federal overhead costs by 10 percent)

Mrs. HUTCHISON. Mr. President, I call up amendment 513 and ask for immediate consideration of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 513.

Mrs. HUTCHISON. 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 appropriate place, insert the following:

SEC. . TEN PERCENT REDUCTION IN GOVERNMENT OVERHEAD COSTS.

(a) IN GENERAL.—Subchapter II of chapter 15 of title 31, United States Code, is amended by adding at the end the following:

"§ 1520. Reducing the salaries and expenses within an appropriation by apportionment

"(a) All appropriations for salaries and expenses shall be apportioned as necessary to carry out this section.

"(b)(1) Except as provided by paragraph (2), in apportioning any appropriation for salaries and expenses for a fiscal year under this section, the amount shall be reduced by an amount equal to 5 percent of the actual amount incurred for those salaries and expenses in the immediately preceding fiscal year.

"(2) The reduction required under paragraph (1) for a fiscal year shall (if applicable) be reduced by a dollar amount equal to the amount by which that fiscal year's appropriation for salaries and expenses is less than the actual amount incurred for those salaries and expenses in the immediately preceding fiscal year.

"(c) For purposes of this section, the term 'expenses' means the object classes identified by OMB in Object Classes 20–26 as follows:

"(1) 21.0: Travel and Transportation of Persons.

"(2) 22.0: Transportation of Things.

"(3) 23.1: Rental Payments to GSA.

"(4) 23.2: Rental Payments to Others.

"(5) 23.3: Communications, Utilities, and Misc.

"(6) 24.0: Printing and Reproduction.

"(7) 25.1: Consulting Services.

"(8) 25.2: Other Services.

"(9) 26.0: Supplies and Materials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall only apply to fiscal years 1994 and 1995 and shall have no force or effect after September 30, 1995.

Mrs. HUTCHISON. Mr. President, this is a 10-percent reduction in Federal overhead costs over 2 years, 5 percent in 1994, 5 percent in 1995. This is not program cuts. It is salary and administrative allocation for Federal agencies.

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

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I raise a point of order against the pending amendment under section 305(b) of the Congressional Budget Act.

The PRESIDING OFFICER. A point of order is made.

Mrs. HUTCHISON. I move to waive the point of order 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 agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

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

The yeas and nays resulted—yeas 58, nays 40, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—58

Bennett	Cochran	Domenici
Bingaman	Cohen	Dorgan
Bond	Conrad	Durenberger
Brown	Coverdell	Exon
Bryan	Craig	Faircloth
Burns	D'Amato	Gorton
Campbell	Danforth	Graham
Chafee	DeConcini	Gramm
Coats	Dole	Grassley

Gregg	Lautenberg	Robb
Hatch	Lieberman	Roth
Hatfield	Lott	Shelby
Heflin	Lugar	Simpson
Helms	Mack	Smith
Hutchison	McCain	Stevens
Jeffords	McConnell	Thurmond
Kassebaum	Murkowski	Wallop
Kempthorne	Nickles	Warner
Kerrey	Packwood	
Kohl	Pressler	

NAYS—40

Akaka	Glenn	Moynihan
Baucus	Harkin	Nunn
Biden	Hollings	Pell
Boren	Inouye	Pryor
Boxer	Johnston	Reid
Bradley	Kennedy	Riegle
Breaux	Kerry	Rockefeller
Bumpers	Leahy	Sarbanes
Byrd	Levin	Sasser
Daschle	Mathews	Simon
Dodd	Metzenbaum	Wellstone
Feingold	Mikulski	Wofford
Feinstein	Mitchell	
Ford	Moseley-Braun	

NOT VOTING—2

Murray	Specter

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment by the Senator from Texas introduces new subject matter and is not germane and falls for that reason.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

CHANGE OF VOTE

Mr. AKAKA. Mr. President, on vote No. 187, I was recorded in the affirmative. I ask unanimous consent that I be recorded in the negative. This change will not affect the outcome of the vote.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

CHANGE OF VOTE

Mrs. BOXER. Mr. President, on vote No. 187, I was reported in the affirmative. I ask unanimous consent that I be recorded in the negative. This change will not affect the outcome of the vote.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

CHANGE OF VOTE

Mr. GRAHAM. Mr. President, on vote No. 187, I was recorded in the affirmative. I ask unanimous consent that I be recorded in the negative. This change will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida?

Mr. DOMENICI. Mr. President, reserving the right to object, and I do not know that I will object, I think we at least should have an opportunity to know what these votes Senators are changing on are. This is unheard of. We have three or four Senators changing their votes this evening on something they voted on today.

Mr. MOYNIHAN. The Pressler amendment.

Mr. DOMENICI. The Pressler amendment.

Mr. SASSER. Mr. President, is that all right with the Senator from South Dakota?

Mr. PRESSLER. All right.

Mr. DOMENICI. Senator PRESSLER said, "All right."

Mr. PRESSLER. There were over 200 votes cast for the Pressler amendment today. [Laughter.]

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. DOMENICI. Wait a minute.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, will the Senator yield for a moment?

Mr. MOYNIHAN. Yes.

Mr. MITCHELL. Mr. President, I simply want to state it is a matter of courtesy and policy that no Senator who sought ever to change his vote under these circumstances has ever been denied that opportunity—No Senator of either party.

Mr. DOMENICI. We did not object.

Mr. DOLE. There is no objection.

The PRESIDING OFFICER. The Senator from New York.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, on vote No. 187, I was recorded in the affirmative. I ask unanimous consent that I be recorded in the negative. This change will not affect the outcome of the vote.

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

Mr. MOYNIHAN. I thank the Chair.

[The foregoing tally has been changed to reflect the above orders.]

AMENDMENT NO. 561

(Purpose: To strike certain medicaid immunization provisions and provisions relating to the central bulk purchasing program for pediatric vaccines and insert provisions relating to medicaid reimbursement of vaccine manufacturers)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 561.

Mr. BUMPERS. 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 337, beginning with line 1, strike all through page 389, line 7, and insert the following:

SEC. 7802. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(A) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such payment to a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)."

(b) State Vaccine Bulk Purchase Program.—Section 1902 (42 U.S.C. 1396a) is amended by adding after paragraph (58) the following new paragraph:

(59) provide for the establishment of a State vaccine bulk purchase program for the purchase of pediatric vaccines." and by adding at the end of the following new subsection:

(z)(1) For purposes of section 1396(a)(59), a vaccine replacement program described in this subsection is a vaccine bulk purchase program under which a State with a State plan approved under this title on tracts with each manufacturer of childhood vaccines selling such vaccines in the State to—

"(A) supply doses of childhood vaccines to providers (or in the case of a State medicaid vaccine program, the State) administering such vaccines to individuals eligible to receive medical assistance under the State plan and replace such vaccines as needed; and

"(B) charge the State agency for such doses of childhood vaccine the price under the most recent bid (determined once such a bid price is made public) submitted by a manufacturer which receives the Centers for Disease Control and Prevention contract with respect to the childhood immunization program under the Public Health Services Act, plus a reasonable fee to cover shipping and handling of returns for such doses.

(2) Any manufacturer of childhood vaccines selling such vaccines in a State which does not participate in a vaccine replacement program described in paragraph (1) which is operated in such State shall be ineligible to bid for Centers for Disease Control and Prevention Immunization contracts under section 317(j) of the Public Health Service Act."

(c) DEFINITION OF STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396d) is amended by adding at the end of the following new subsection:

(t) VACCINE BULK PURCHASE PROGRAM.—The term "vaccine bulk purchase program" means a State program which purchases vaccines at prices negotiated by the Centers for Disease Control and Prevention's childhood immunization program and distributes such vaccines free of charge to entities providing medical assistance to individuals eligible for such medical assistance under this title."

(d) AGREEMENT WITH THE STATE.—Section 1902(a)(27)(42 U.S.C. 1396a(a)(27) is amended—

(1) by striking "under the State plan", and inserting "under the State plan and with any entity that is a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity."

(e) CDC PRICE PLUS CPI.—To the extent that, at the date of enactment, a specific vaccine is purchased under contract with the Centers for Disease Control and Prevention as provided in the Public Health Service Act,

no bid for the purchase of such vaccine shall be accepted by the Centers for Disease Control and Prevention if the price per dose of such vaccine exceeds the price in effect on the date of enactment increased by the percentage increase in CPI from date of the contract in effect on the date of the enactment to the date of the contract. This provision shall be in effect for contracts made in Fiscal Year 1994 through Fiscal Year 1998.

(f) MULTIPLE SUPPLIERS.—The Public Health Service provisions relating to the Centers for Disease Control and Prevention purchase of vaccine may not be construed as prohibiting the Secretary from entering into a contract with each manufacturer of a vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

Mr. BUMPERS. Mr. President, there is no time for debate on this. I spoke on this on the first amendment. I will be down in the well passing out all that great legislature.

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 Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY], is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY], would vote "nay."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—59

Baucus	Faircloth	Mack
Bennett	Ford	Mathews
Bond	Gorton	McCain
Brown	Gramm	McConnell
Bryan	Grassley	Murkowski
Bumpers	Gregg	Nickles
Burns	Harkin	Nunn
Byrd	Hatch	Packwood
Campbell	Hatfield	Pressler
Coats	Heflin	Pryor
Cochran	Helms	Reid
Cohen	Hollings	Sasser
Coverdell	Hutchison	Shelby
Craig	Inouye	Simpson
D'Amato	Johnston	Smith
Daschle	Kassebaum	Stevens
Dole	Kempthorne	Thurmond
Domenici	Kerrey	Wallop
Durenberger	Lott	Warner
Exon	Lugar	

NAYS—39

Akaka	Bradley	DeConcini
Biden	Breaux	Dodd
Bingaman	Chafee	Dorgan
Boren	Conrad	Feingold
Boxer	Danforth	Feinstein
Glenn	Levin	Riegle
Graham	Lieberman	Robb
Jeffords	Metzenbaum	Rockefeller
Kennedy	Mikulski	Roth
Kerry	Mitchell	Sarbanes
Kohl	Moseley-Braun	Simon
Lautenberg	Moynihan	Wellstone
Leahy	Pell	Wofford

NOT VOTING—2

Murray	Specter

So, the amendment (No. 561) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 559

(Purpose: To provide for the establishment of a performance based grant program with respect to childhood immunizations)

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I call up amendment No. 559 which has been carefully crafted by the chairman of the Labor Committee.

I send the 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 Arkansas [Mr. BUMPERS] proposes an amendment numbered 559.

Mr. BUMPERS. 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 863, between lines 13 and 14, insert the following new section:

SEC. 12205. PERFORMANCE BASED GRANT PROGRAM.

(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Center for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Health and Human Services shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 65 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

(2) AS A CONDITION OF RECEIVING AMOUNT UNDER THIS SECTION.—

(i) States which combine State and Federal funds to reach immunization goals shall agree to reinvest in activities related to improving immunization services that percentage of the payment under (b)(1) which is equal to the Federal contribution to immunization services in the State proportional to the State contribution to such services; and

(ii) States which verify that State-only funds are responsible for the increase in immunization rates that qualifies such State for payment under (b)(1) may use amounts awarded under this section for other purposes at the State's discretion.

(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary of Health and Human Services shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

(c) DEFINITION.—For purposes of this section, the term "fully immunized" means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polo vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 559) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, according to my calculation those are all the amendments.

The Senator from Ohio, I think, has one amendment that will be accepted by both sides.

Mr. METZENBAUM. It is acceptable by both sides. It is a very small amendment involving $6 million. There is no objection. It has to do with orphan drugs. There is no objection that I know of. I send the amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. No more amendments.

The PRESIDING OFFICER. The Chair notes objection.

Mr. D'AMATO. I object. I object.

Mr. SASSER. I ask unanimous consent the Senator from Ohio be recognized for the purpose of offering an amendment that has been cleared by both sides and will be acceptable.

Mr. GRAMM. If you do not take it let us not debate it.

Mr. D'AMATO. Mr. President, I would like to say we have been trying to negotiate.

Mr. SASSER. Mr. President, I think I have the floor.

Mr. D'AMATO. I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. I object.

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

Mr. GRAMM. A quorum is present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent further proceedings under the quorum call be dispensed with.

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

Mr. LEAHY. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

MCCAIN-INOUYE INDIAN ENTERPRISE ZONE AMENDMENT

Mr. DOMENICI. Mr. President, there is one amendment to this bill that has been a long time coming. It is the amendment offered by Senators MCCAIN, INOUYE, and myself.

We have been working on this legislation for almost 5 years now. And I am delighted that the Senate is going to accept this amendment.

The media's recent attention to the mysterious Four Corners Disease on the Navajo Reservation has put a spotlight on the Indian reservations and Indian life. It has awakened the conscience of this great Nation and focused it on the plight of the America Indians.

A number of us in the Senate have been concerned for a long, long time.

American Indians are by far America's poorest ethnic group. About one-half of America's 1,400,000 Indians live on reservations. To justify the need for reform, consider that the average rate of unemployment on Indian lands is 52 percent.

The reservations are remote. Economic opportunity sparse.

Alcoholism, drug abuse, and highway death statistics paint a dire picture.

Housing conditions on a reservation are just a notch above homelessness.

Long before I came to the U.S. Senate, the Federal Government had shown concern for its Indian people. We created Indian education, and Indian health. We established a Bureau of Indian Affairs to oversee programs for economic development, for irrigation, and a host of other needs.

It was all Government, and the results were never what we envisioned.

There is a large Indian population in New Mexico. I believe that the future of the State depends in part on the economic well being of our diverse Pueblo people and Indian tribes. Some of the Pueblos have shown an aptitude for entrepreneurship.

Their activities prompted me to hold two Indian economic summits which brought together Indian leaders, entrepreneurs, high-technology company representatives, and other leaders. Our task was to determine what was needed to bring economic opportunity to the reservations.

At those summits we learned about the highly skilled, predominately untapped potential of the Indian population. I have long admired the beauty of Indian pottery, silver jewelry work, and intricate beading. This commitment to quality and attention to detail are highly sought after traits for many types of manufacturing. Yet this Indian aptitude seemed to be overlooked by American companies.

My first conclusion was that too many American firms were unaware of the potential workers on the Indian reservations.

My second conclusion was that the lack of infrastructure, and the remote locations of the reservations justified Federal tax incentives to help these people make their own Indian economic opportunity.

I did a survey of various incentive models. I looked at 10 years of enterprise zone proposals. I examined the history of section 936 and its contribution to Puerto Rico's development. I looked at the targeted jobs tax credit, and a wide array of job training programs.

The proposal that seemed the most promising was one originally developed by the Treasury Department to reward companies that create jobs.

This is the wage credit portion of this amendment. It rewards employers for hiring Indian Americans.

To help develop the infrastructure certain investment tax credits are also created.

I want to thank Senators MCCAIN and INOUYE who have been tireless in their commitment to getting this legislation enacted.

I hope one day in the near future to stand on this Senate floor and report to this Chamber the positive impact we have had by enacting this legislation. I hope to tell you of the economic activity created, the jobs provided, the lives improved and the prosperity that we brought to Indian country by enacting this program tonight.

Tonight we are investing $209 million in this plan for Indian economic development. I predict it will be the first nurturing step to help each and every Indian reservation blossom like a rose.

This is one amendment that will truly make a positive difference in the lives of many American Indians.

Mr. DOLE. Mr. Chairman, I am particularly concerned with the provisions of the Senate Finance Committee bill which would cut back from 100 percent to 75 percent the amount of intangible assets that taxpayers can amortize. These provisions now raise over $5 billion of new revenue, principally from small business taxpayers, by denying taxpayers the ability to amortize assets which the House bill would permit them to amortize. This provision began as a tax simplification which was supposed to be revenue neutral and it is running out of control as a way to raise money from small business owners throughout the United States in a wide variety of businesses. In my own State of Kansas, the provision would negatively impact every independent insurance agent, every cable television business, every bank and savings and loans, and thousands of other businesses, particularly those in the service industries. I believe it is essential that while in conference the Senate conferees modify the legislation to provide for 100 percent amortization of these assets.

Mr. DODD. Let me say that I particularly agree with Senator DOLE's comments on this matter. The legislation contained in the House bill is a simplification which is intended to eliminate many taxpayer controversies. It was originally intended to be revenue neutral although now it raises $2 billion as a result of the recent Supreme Court decision. Let me, in particular, emphasize how this will affect many small service businesses, like those in the insurance or banking industry. Many of these businesses have customer lists which current law permits them to amortize over a 5 to 7 year period. The House legislation attempts to simplify this area of the law by permitting the amortization of those customer lists plus goodwill but over a much longer period, 14 years. The Senate Finance Committee bill leaves taxpayers with the longer recovery period of 14 years but only allows them to amortize 75 percent of the basis. In many cases, for my small businesses in Connecticut, this will impose a tremendous hardship compared with what they are permitted to do under current law. It is obvious the provision will impose a particular hardship because it would increase revenues by $5 billion. Moreover, as Senator DOLE has correctly recognized, much of this revenue would come from small business men and women. I, too, believe it is essential the conferees on this matter accept the House position to allow 100 percent amortization of these assets.

Mr. KOHL. Mr. President, I cannot say that I like this bill.

I do not like the fact that the gas tax will cost middle-income Americans $24 billion. I do not like the fact that too many people receiving Social Security will have to pay more taxes. I do not like the fact that spending on Medicare will be reduced while the cost of health care will continue to increase. I do not like the fact the small businesses will, in some ways, bear an unfair burden. I do not like the fact that the bill relies on too many taxes and too little on spending cuts. I voted for amendments designed to address these problems; but those efforts did not prevail; these problems remain.

Mr. President, I can say that I like this bill better than the one the President originally proposed and the House passed.

I like the Senate bill better because the Btu tax is gone. I like the Senate bill better because the energy tax has been cut by almost two-thirds. I like the Senate bill better because the ratio of spending cuts to tax increases has been improved. I like the Senate bill better because the retroactivity of the tax increases has been eliminated. I like the Senate bill better because we protect more senior citizens from Social Security tax increases. I had a role in making those improvements in the Senate bill: I discussed these issues with the President, with the majority leader, with the chairman of the Finance Committee, with other Members of the Senate.

Mr. President, I can say—I must say—that this bill is a serious deficit reduction initiative.

This bill will reduce the projected increase in the deficit by $500 billion, one-half a trillion dollars. That, Mr. President, is not small change. And it makes a big contribution to dealing with a huge problem.

The deficits we are running, the debt we are accumulating, are destroying our country. Four trillion dollars of debt. Annual deficits of close to $300 billion a year. An ever increasing percentage of our national budget squandered on interest payments rather than protecting the interests of our children, our cities, our environment. Financing our debt dries up capital and drives up the interest rates we pay for the cars, and homes, and consumer goods we buy; it increases the cost of doing business, it restricts economic growth, it reduces employment.

Before I came to the Senate, I was in business. My concern about the deficit is not academic. It is practical. It is real. I know that every business, large and small, suffers as a result of the deficit. Every family that buys anything on credit, every person who has to finance a major purchase, every student who must borrow money to pay for a college education, virtually every American, pays a price as a result of the deficit. It is a price that we cannot afford to pay as a nation or as individuals.

It is a price that this bill reduces.

We have talked about deficit reduction for years. We have waited for a President who would exert leadership and demand action. Well, we have one now. The plan he presented was not perfect. We have improved it and it still is not perfect. But it is reasonable. Almost 80 percent of the tax increases called for will be paid by people earning over $200,000 a year. It cuts spending—cuts so real that total Federal spending, excluding health care costs, will be just about the same next year as they are this year. And that, Mr. President, is the first time that has happened in years. The balance between tax increases and spending cuts, while not as heavily tilted to spending restraint as I would like, is minimally acceptable.

So, Mr. President, I will swallow my reservations. I will place my criticisms and complaints in perspective. I will not let the perfect be the enemy of the good. I will vote for this bill.

But let me make it clear that this bill is, in my view, on the edge. The good that it does outweighs the evil it causes by only a modest amount. Before this legislation can become law, our version must be conferenced with the House version. And when that conference report comes before us, when we are voting not just for a bill, but for a law, I tell my colleagues that the standards of evaluation I will use before deciding how to vote will be very stringent. I want to make sure that the balance between taxes and spending cuts remains at least where it is and I hope we will have even more spending cuts and fewer taxes. The burden we have imposed on middle-income Americans with the gas tax is about as much as I can tolerate. The incentives we provide to business, and the relief we offer to small business, should increase. In voting for the Senate bill, I am voting to continue the search for better legislation. When the conference report comes back to us, there will be no chance to improve it. My vote on the conference report will depend on how well it balances and blends the best elements of the House and Senate bills. How well it achieves those ends is yet to be determined. And my vote on that issue is still to be decided.

APPLICATION OF INTANGIBLES PROVISIONS TO VIDEOTAPES PURCHASED AS PART OF THE ACQUISITION OF A TRADE OR BUSINESS

Mr. MITCHELL. Mr. President, I would like to ask the chairman of the Finance Committee his view as to the application of section 8261 to the bill, the provisions dealing with the amortization of acquired intangible assets, to mass-produced videotapes, recordings, books, and other similar items that are readily available for purchase by the public, have not been substantially modified, and are acquired without the acquisition of the copyright or any right to copy or other exclusive license. It is my understanding that when such items are purchased as part of the acquisition of a business that sells or rents such items, the items are not section 197 intangibles.

Mr. MOYNIHAN. That is correct.

Mr. LEAHY. Mr. President, what a difference 12 years make. Back in 1981, President Reagan spoke often of the dangers of our then $50 billion Federal deficit. He spoke ominously of dollar bills stacked up to the Moon to illustrate the perils of deficit spending. He then offered an economic plan of huge tax cuts and spending increases that he promised would balance the Budget. In fact, Reaganomics took that stack of dollar bills past the Moon, past the Sun, and up into the stars.

In 1981, I was 1 of 11 who opposed Reaganomics because it seemed to good to be true. And it was. It led to $3 trillion of red ink and annual interest payments of over $200 billion to pay for that debt. It led us directly to this day, 12 years later, to this painful budget, to this vote.

The difference is, today we have an administration in the White House that doesn't just talk the talk about deficit reduction. We have an administration that looks beyond the easy answers to face up to the problems posed by these deficits.

President Clinton has not offered Congress a plan that is politically popular. This is a bill that a lot of people are going to have a lot of fun hating. This is a package that will begin to turn back the tide of red ink. It is tough medicine for tough times.

The Clinton budget plan offers specifics about cutting the deficit—specific spending cuts, specific tax increases. The problem with offering specific proposals is that special interest groups can more easily pick apart the package. As one journalist wrote: "The best measure of the program's fairness is the range of groups that have found things not to like." The special interest groups have been working overtime the last 3 months.

I support the Clinton budget plan and I will vote for the reconciliation bill. This is not a perfect bill, far from it. There are things in this bill that I object to—both on the side of tax increases and on the side of program cuts. Again, this debate is about making tough choices—the tough choices that were not made in the 1980's.

I support this reconciliation bill for three basic reasons. First, it is part of a budget package which cuts spending more than it raises taxes. Since the release of the Clinton budget proposal, Vermonters have told me they want more spending cuts than tax increases. This budget has been altered to include $1.04 in spending cuts for every $1 in tax increases.

The spending cuts in this bill will be painful. As chairman of the Senate Agriculture Committee, I was charged with cutting $3 billion out of agriculture programs. We cut a broad range of farm subsidies to cotton, grains, sugar, honey, peanuts, wool, mohair, and dairy products.

As chairman of the Subcommittee on Foreign Operations, I will be charged with cutting $1.5 billion in foreign aid below last year's funding levels. That is a foreign aid cut of more than 10 percent in 1 year.

I am troubled by the $60 billion in Medicare and Medicaid cuts in this bill—an amount I find too draconian and arbitrary. It is not fair to place so

much of the deficit reduction burden on Medicare beneficiaries and vulnerable rural health care providers.

The additional $10 billion in Medicare cuts the Senate bill makes over the cuts in the House bill may endanger the survival of the already fragile health care systems in rural areas. These cuts are particularly unfair in Vermont where hospitals and doctors have acted responsibly to keep costs down. The effect of these cuts will inevitably be to increase the out-of-pocket costs for the elderly and disabled.

I will be working with like-minded Senators and Members of Congress to ensure a fairer outcome when the conference report comes before the Senate.

Anybody who says spending isn't cut in this bill doesn't know the truth—or more likely, doesn't care about the truth.

Second, the taxes in this bill are fair and progressive. No one wants to pay more taxes. But the simple fact remains: we cannot make a meaningful reduction in the budget deficit absent increased taxes.

David Stockman, President Reagan's OMB Director, misjudged the calamity of Reaganomics. Back then, he spoke of $200 billion deficits "as far as the eye can see." He clearly couldn't see too far. This year the deficit tops $300 billion, and without this deficit reduction plan will continue skyward.

Earlier this year, with the zeal of a reborn traveling preacher Stockman said that "on one thing [President Clinton] has told the unvarnished truth. There is no way out of the elephantine budget deficits which have plagued the Nation since 1981 without major tax increases."

So, this budget increases revenues by nearly $250 billion over 5 years to pay for deficit reduction. Who pays these new taxes? Seventy-nine percent of these taxes fall on taxpayers making over $200,000 a year. Eighty-seven percent will be paid by those making over $100,000 a year.

This is a progressive tax bill because it raises taxes on the highest earning Americans and reduces the taxes on working Americans making less than $30,000. This legislation turns the corner on the regressive changes made in the Tax Code over the last decade when the tax rates on the wealthiest 1 percent of Americans saw their effective tax rates halved, while the poorest Americans saw their rates increase.

This tax bill raises the tax rate to 35 percent on corporate profits over $10 million. It limits business deductions for entertainment expenses, for executive salaries over $1 million, and limits the tax deductibility of moving expenses.

I am disappointed that this bill contains a 4.3-cent tax on gasoline. A gas tax hurts rural States like Vermont. Many Vermonters have no access to mass transit, and must drive long distances to and from work.

This bill also contains important investment incentives. The low-income housing tax credit is permanently extended in this legislation, something I have fought for for years. Low-income Americans that work would get expanded tax relief under the Earned Income Tax Credit. This is one of the most important tax provisions on the books because it encourages families to get off welfare and make it on their own.

While I would like to have seen permanent extension, at the very minimum this bill extends the targeted jobs tax credit, the R&D credit, and the authority to issue mortgage revenue bonds. There is even tax relief here through the repeal of the luxury tax.

Third, and most importantly, I will support his bill because it reduces the deficit by over $500 billion. Republicans have criticized it for not having enough deficit reduction, though the same warmed over alternatives they offer would do no better—while doing it in a mindless way.

If we stay the course on the Reagan-Bush budget model, we will be running $400 billion annual deficits by 1998. The Clinton budget plan does not eliminate the deficit, but it does cut it in half compared to where we were headed under Reaganomics.

This budget plan is the first push for deficit reduction by a 5-month old administration trying to correct 12 years of fiscal mismanagement. Let us not forget one important fact: After 12 years of Republican administrations—which requested more Government spending than Congress appropriated—the Federal budget and the American taxpayer are saddled with $3 trillion in additional debt. The interest on the Republican debt amounts to roughly $150 billion annually, or half our current deficit.

The Clinton budget plan takes a direct, honest approach to cutting the deficit. No caps. No freezes. No gimmicks. The President has asked the American people to sacrifice programs where they can be cut. He has asked Americans to pay more taxes, commensurate with their ability to pay, to reduce the deficit.

There is no magic here or grandiose promises. We don't have a President who talks nostalgically about Morning in America. It is getting late in the day. The clock is ticking. It is time we did something for the good of this country to get this deficit down.

THE RECONCILIATION BILL

Mr. PELL. Mr. President, the reconciliation bill before us takes a huge step in the right direction, and I fully support it, notwithstanding the fact that many of us might like to see it go further. The bill is the centerpiece of a remarkable watershed in our national political life—an historic time of change as we move to a new set of progressive national priorities.

As I have observed previously, only twice in my lifetime has the Nation faced such a critical turning point—once in 1932 and again in 1960.

The bill provides the largest deficit reduction program in the Nation's history. At long last, it brings to an end an era of reckless borrowing and spending. It demonstrates that when there is reasonable philosophical agreement between the executive branch and Congress, responsible results will ensue. Approval of this bill will be one more signal that the era of gridlock is behind us.

This massive redirection of national priorities and resources is based on one essential element, and that is fairness. At the core is the concept that those who have benefited the most from the workings of the economy over the past 12 years should now pay their fair share of the burden of public debt which should have been retired while the good times were booming.

The general plan of taxation proposed by the President and embodied to a considerable degree by this bill conforms to that essential element of fairness, both in terms of the progressive rates on higher incomes and the broad based energy tax on transportation fuels.

I will be frank to say that I much prefer the Btu tax because I believe it spreads the burden across a broader base of fuels and probably is the fairest plan in terms of regional interests. And I would note that the Btu tax would have raised $72 billion, instead of the $24 billion provided by the tax on transportation fuel.

Had the Btu tax been retained, we would not be faced with the $19 billion additional cuts in Medicare which I must say detracts from the basic fairness of the bill. I hope that there will be a serious effort in conference to reduce the cuts in the Medicare program.

This is but one area in which the bill before us, as epochal as it is, unfortunately does not live up to the full promise of President Clinton's program. While the bill does indeed change national priorities in terms of fiscal responsibility and deficit reduction, it seems to have lost, along the way, some of the initial promise of creative action to promote economic growth.

Lost in the process of political compromise are incentives for corporate investment and provisions for public investment in such programs as technology research and worker training. History may well record that we became so stampeded by the deficit cutting frenzy that we lost sight of the pro-active part of President Clinton's economic program. Hopefully, this will prove to be a temporary lapse.

In this connection, I would note that the bill fails to make appropriate allowance for the major mechanism for economic growth and that is capital

gains. The bill provides for a 10-percent surtax on capital gains for those whose income exceeds $250,000, effectively increasing the tax rate on capital gains from 28 percent to 30 percent.

To my mind, this is folly because it diminishes the pool of resources which is most likely to stimulate the economy. And I might note in this regard that by far the greatest portion of capital gains comes to those whose income exceeds $250,000. As our venerable former colleague John O. Pastore was wont to say this provision "kills the goose that lays the golden egg." So it would be my hope that this legislation in its final form would make a more positive recognition of a role of capital gains.

Finally, in my capacity as chairman of the Subcommittee on Education, Arts and Humanities, I would like to note a bright spot in the bill with respect to the student aid provisions. I am very pleased indeed with the compromise proposal agreed to in the full Labor Committee which contributes over $4 billion in savings to the bill, with an additional $2 billion or more in direct benefits to students through reduction of origination fees and insurance premiums.

Under the compromise, we will test the concept of direct government loans on an expanded basis. But through the National Commission on Student Loan Reform we have a way of assessing the program without reaching a point of no return. We also provide a series of program safeguards to assure students and families that will have access to the loans they need to help pay for a college education. And we streamline the operation of the student loan program. On the whole, the student aid provisions are sound and deserve the support of the Senate.

In summary, Mr. President, the legislation before us, like all products of compromise, does not have in it everything that it should have. But it is a massive instrument of change notwithstanding its imperfections. I congratulate the President for setting us on this course and the Senator from New York [Mr. MOYNIHAN] for the critical role he played in securing agreement on the core provisions of the bill. I support its passage and hope for a constructive and productive conference with the House.

LEGISLATIVE LINE-ITEM VETO SEPARATE ENROLLMENT AUTHORITY

Mr. HOLLINGS. Mr. President, I rise today in support of the Bradley-Hollings amendment which will allow the President to control wasteful and unnecessary spending and thereby reduce the Federal deficit. This amendment, which would provide a statutory, separate enrollment line-item veto, would apply both to items of appropriation as well as to tax expenditures. In addition, it would use the same mechanism as measures previously considered by the 99th Congress and reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990.

Currently, 43 States allow their chief executive to limit legislative spending through some form of the line-item veto. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation have been painfully documented. The Federal Government currently faces annual deficits approaching $400 billion and a total debt eclipsing $4 trillion. For years now, we have been toying with freezes, asset sales, and sham summits, but the deficit and debt continue to grow.

The American taxpayer, as well as the Congress, have grown weary of finger-pointing and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. By restoring accountability and responsibility to both the appropriations process and the tax code, the line-item veto would force Members of Congress and the President to stop fixing the blame and to start fixing the problem.

This amendment provides that each item shall be enrolled as a separate bill and sent to the President for his approval. Therefore, each item of an appropriations or tax bill would be subject to veto or approval, just like any other bill, and the override provisions found in article I of the Constitution would apply in the case of a veto. The enrolling clerk would merely break an appropriations or tax bill down into its component parts and send each separately enrolled provision to the President.

Finally, this measure also contains a 2-year sunset provision allowing for a reasonable testing period and requiring an evaluation of the line-item veto's success. During the debate on the budget resolution, 73 Senators voted for an amendment introduced by Senator BRADLEY and myself which expressed the sense of the Senate that the President should be given the authority provided in this legislation. I have no question but that it will be demonstrated to be a modest, but effective method of restraining fiscal profligacy. I hope that Senators will join us in this effort and allow the President to go into battle against the deficit well armed.

Mr. ROCKEFELLER. Mr. President, I rise in support of the Omnibus Budget Reconciliation Act of 1993; not because of all the spending cuts it makes, and certainly not because of the taxes included, but because it represents a historic step down a long road that will put our great Nation back on track toward progress and prosperity.

None of us, including President Clinton, are happy about some of the tough choices and sacrifice required to change our country's course and attack the Federal deficit that is strangling our future. But we cannot ignore these problems, and we cannot afford to continue the pattern of inaction set by the past 12 years. I believe President Clinton has shown the courage to offer an honest plan to change course, and the Senate must do its part to help foster the same sense of responsibility for the future.

President Clinton is asking all Americans to help change the country's direction, and commit themselves to this effort with courage and will. It will take that to shoulder—fairly—the job of repairing the damage done to the country over the past decade. Over the long haul, the benefits of President Clinton's overall deficit reduction and economic recovery program should far outweigh the initial sacrifices needed. In fact, families across the country, and in my State of West Virginia, have already benefited from the lower interest rates that have come about because of President Clinton's plan.

I did not make the decision to vote for this package lightly. Immediately after the President first unveiled his economic and budget plan, I held a series of meetings all over the State of West Virginia. Officials of the Clinton administration traveled to these forums, to explain the goals of the President's program and the reasons for each of the main elements of that program. We also assessed the consequences of ignoring the deficit, keeping the blinders on, and pretending that the ideologs and obstructionists are right.

At the meetings in West Virginia, and in hearing from constituents over the past months, I heard the same points made over and over again. West Virginians said they were willing to do their fair share for deficit reduction if and only if their Government leaders could assure them that the burden would be spread fairly and that a serious effort would be made to cut waste in every single part of Government.

Mr. President, I agree that our top priority should be to cut spending and waste in Government, instead of raising taxes. But, and I am sure everyone in this Chamber will agree, we should make sure we cut responsibly and fairly. Unfortunately, to get the same sort of deficit reduction without measures like an energy tax, we would have to enact other measures that could be even more burdensome to Americans who are struggling the most to make ends meet. That was why I fought excessive cuts in Medicare and Medicaid. While I do believe that we have to reign in the cost of mandatory programs, I don't think we should put the burden of deficit reduction on the backs of those least able to pay. And let me be clear, this plan does not do that—87 percent of the new taxes will

be paid by families earning over $100,000, and about 79 percent will be paid by families making over $200,000.

As I said before, tackling the deficit does not begin with new taxes—it begins with cutting waste and unnecessary spending on all fronts. And while it is simplistic to reduce this debate to a political soundbite, at the heart of this proposal there are 92 cents in deficit reducing taxes for every $1 in spending cuts.

Mr. President, opponents of this plan—many of them the same people who championed the borrow and spend policies of the 1980's—have said over and over again how they are against raising taxes even on the wealthiest Americans, but when asked how they would cut spending, they almost always offer only generalities and evasions. Mr. President, supporters of this plan have made a lot of tough decisions, including cutting approximately $269 billion in both mandatory and discretionary spending. In all, this plan will mean $500 billion in deficit reduction over the next 5 years.

And President Clinton is determined that Government make the first contribution to deficit reduction by cutting Government spending. I am pleased that the President has already cut the White House staff by 25 percent, saving an estimated $40 million over 4 years. And Mr. President, Congress has responded in kind, by initiating a plan to cut its staff and budgets in proportion to the President's.

Under the budget plan, as proposed by President Clinton, we will cut Government programs where there is waste and taxpayer's hard-earned money could be better spent elsewhere. The administrative costs of Government will be cut by $11 billion. Education programs will be streamlined. Agriculture programs will be scaled back. Unnecessary commissions will be eliminated. The budget axe will be used in program after program, with the insistence that the Government's fiscal house must be put in order.

Moreover, President Clinton has taken aggressive and bold steps to streamline the Federal Government by ordering administrative cuts in the budgets of agencies and departments, and by cutting wasteful spending, such as the use—and abuse—of Government-owned aircraft, cars, executive dining facilities, and stays at vacation resorts that have in the past meant unjustifiable costs to taxpayers. President Clinton has issued Executive orders requiring the elimination of many perks or extras enjoyed by past administrations—often at taxpayer expense. The President has banned unnecessary air travel and the use of Government-owned aircraft where commercial air travel is available. He has also called for reducing the number of motor vehicles owned by the Federal Government, by at least 50 percent by the end of 1993.

69-059 O—97 Vol. 139 (Pt. 10) 22

All of these measures are aimed toward reducing Government wastefulness and unnecessary spending, and to guarantee a Federal Government that will efficiently deliver services to the American people, who, after all, are those for whom the Government exists to serve.

It is impossible to craft a bold plan to make the country stronger and more prosperous and please everyone on every detail. My own tests involved judging whether the President's plan was fair, workable, and the beginning of a new course that would benefit our Nation and my State of West Virginia. I believe that this plan fulfills those tests, and I am certain that if we all agree to pitch in and do our part to help ease the burden imposed on us by the deficit, the Clinton administration will confront—head-on—national problems like health care, crime, education, the economy, and the environment.

I have commented in other parts of this debate on my strong views about the role that Medicare and Medicaid should play in deficit reduction. I am extremely proud of the collective effort made to shield these health care programs from harmful cuts and blows to the extent possible. It is true that these programs are spending money at a rate of growth that's unsustainable. But the time and the place to resolve that problem is called health care reform. In this budget package, we turned to Medicare and Medicaid to make a sizable contribution toward deficit reduction.

Mr. President, as I said before, this bill represents a major leap down a long road toward putting our great Nation back on track toward progress and prosperity. The next necessary step is health care reform, and I am confident that with the help and participation of all Americans, we will usher in a new era of hope, a renewed sense of pride and well-being in our Nation, and the restoration of progress and prosperity in the lives of the American people.

OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. HEFLIN. Mr. President, I rise today in support of S. 1134, the Omnibus Budget Reconciliation Act of 1993. I do so with the firm belief that this economic plan is the very best hope we have now or will have in the next 4 years of finally getting a handle on our massive budget debt and yearly deficits.

We stand at a unique place and time in history with regard to addressing our most pressing structural economic problems. The American public, through countless opinion surveys, consistently ranks deficit reduction as its paramount concern. Of course, there are many reasons offered for this seemingly new-found determination to do something about the deficit. Ross Perot's plain talk and colorful charts and the educational efforts of many others undoubtedly deserve some of the credit.

But I believe in the inherent good sense of the American people, and I believe that good sense has opened millions of eyes and even hearts to the fact that America has been victimized by more than a dozen years of borrow and spend Federal fiscal policies that have run up a horrendous $4 trillion national debt. The public is saying, "Enough is enough. This irresponsibility must stop." There is a sense of urgency for protecting the future of our children and grandchildren. The question is whether we will act now to reduce the deficit. If we don't, the only real opportunity we've had in 12 years will be wasted.

Unfortunately, our viable alternatives are few. We must finally begin to service and reduce our debt or our Nation will face the miserable consequences of bankruptcy.

We are deeply and sincerely committed to doing something about deficit reduction. The American people, by all accounts, are prepared to do their part. This is really the first time in my more than 14 years in the Senate that I have seen such an array of forces converged in an attempt to address this pervasive problem. Indeed, it is rare that we ever have a committed President, public, and majority of Congress aligned on any issue, much less one that strikes at the very soul of our free republic.

By no means is this a perfect plan. Like all of my colleagues, I have strong reservations about certain provisions of the reconciliation bill. I am deeply concerned, for example, about the effect business taxes will have on small entrepreneurs. I remain opposed to the Btu tax, which in this bill has been replaced by an additional tax on gasoline. It is a 4.3 cents-a-gallon tax instead of the 50 cents-a-gallon advocated by Ross Perot.

I am not necessarily for a gasoline tax. But, as with anything in this body, it comes down to a matter of choosing among alternatives, and the choice for me was simple. Do we go with the President's proposed Btu tax, or a higher gasoline tax such as that offered by Ross Perot, or with the Senate plan. I chose the Senate plan of 4.3 cents-per-gallon.

The bottom line is this: For the first time since the debt began mounting, we have the momentum to take bold and decisive action to begin reducing it. I am fearful that if we do not act now, we will lose that momentum, perhaps not regaining it until a severe economic crisis slaps us in the face. This package contains $516 billion in deficit reduction, the largest in history: If we choose to do nothing, in 5 years our deficit will be 50 percent more than it will be if this plan is in place.

Contrary to what some Americans still believe, spending cuts alone will

not do the job. As our colleague from South Carolina, Senator HOLLINGS, has stated in his own unique way, "To grasp the inadequacy of this approach, imagine not just cutting domestic discretionary spending, but eliminating every last dime of it, including foreign aid, food stamps, Congress, the judiciary, the White House, and every department in Washington except defense. We would save $250 billion" with such draconian cuts—which would never be acceptable to the public—the Senate plan cuts $260 billion over 5 years.

And so, Mr. President, we can continue to wring our hands and play the blame game, or we can act. As the President stated so well in his address to Congress back in February when he unveiled his economic plan,

> There is plenty of blame to go around, in both branches of Government and both parties. The time has come for the blame to end. I did not seek this office to place blame. I come here tonight to accept responsibility, and I want you to accept responsibility with me. And if we do right by this country, I do not care who gets the credit for it.

Similar sentiments were echoed quite eloquently just last evening by our newest colleague, Senator KAY BAILEY HUTCHISON, when she said,

> This is not a Republican deficit. This is not a Democratic deficit. This is an American deficit. So let us stop the political bickering * * * [the people] are looking to those of us on my side of the aisle and those on the other side of the aisle to do something about jobs and the deficit.

While the junior Senator from Texas favors a different approach, I applaud her strong appeal for bipartisanship.

I want to clear up a few things before concluding. There has been a lot of talk and concern regarding additional taxes and cuts in medical programs for the elderly. I want to make perfectly clear what we are doing.

We have been accused of drastic cuts in Medicare, of taking health care away from our American elderly who need it the most. However, the cuts in this package are directed toward the provider—the hospitals and doctors—not at our senior citizens. I would also add that the Republican alternative offered earlier this week would have actually cut $20 billion more from Medicare than the package we are considering now.

There is another item, Mr. President, that I think needs to be clarified. This package is being presented only as a massive tax bill. Let's be specific about the income tax. The only increase in the personal Federal income tax rate is on those families with an income in excess of $140,000, or, if you are single, an income tax increase for those making in excess of $115,000, or, if you are single, an income tax increase for those making in excess of $115,000. I sincerely believe that wealthy Americans have had a free ride for the last 123 years: It is time for these fortunate citizens to pay their fair share.

Winston Churchill once said, "If we open a quarrel between the past and the present, we shall find we have lost the future." We can argue forever about what might have been done in the past to avoid the economic mess we are in. We do not have the luxury of replaying the past, but we do have the present. And the quarreling of the present will only impact our future security. Let us heed Churchill's warning and cast a vote for the future.

I implore all of my colleagues to stop the blame game and wringing of hands and vote for a new beginning. We are in this together. I urge you to support this historic effort at deficit reduction by stepping up to the plate and accepting responsibility. It is what we have been elected to do. The economic soul of our Nation depends on us fulfilling that responsibility.

I thank the Chair.

Mr. DURENBERGER. Mr. President, I rise today to express my profound disappointment with the budget reconciliation process.

I am disappointed with the result of that process so far—and also with the position in which it has left both the U.S. Senate and the American people.

Last year, I supported George Bush for President. I hoped he would win. He did not. But I reconciled myself to our election loss by hoping that the Clinton administration would live up to the most important promises that then-Governor Clinton made during the campaign. He promised us that he would bring to Washington what he called the courage to change.

And in those promises I found cause for optimism.

The 1992 campaign established beyond any doubt that we have to do things differently. We have to make government better—more efficient and more user friendly.

In short: We have to reinvent Government. Candidate Clinton appealed to that and the American people responded.

This reconciliation bill was our first opportunity to fulfill that promise—and it leaves me profoundly disappointed.

Because the American people demand more than spending cuts and 5-year deficit reduction. These things would be the beneficial result of doing things differently.

The election was about precisely this—doing things differently. That is the way to create long-term change and progress. That is the way to curb the huge Federal appetite for tax dollars. And that is the only way we can restore the confidence of the American people in the institutions of their government.

In spite of all the rhetoric, this budget does not represent change. It is not a new way of doing things. And it is not a new way of looking at Government. This budget takes the same government services, delivered in the same way, delivered by the same agencies to the same people.

Some of my colleagues on this side of the aisle have described this bill as the same old tax and spend philosophy of the past. Of course, they are right. There are some courageous decisions in this bill, but precious few. And there are absolutely no challenges to business as usual in the nation's capital.

On the other side of the aisle, some of my colleagues have criticized the Republican alternative as the same old slash and freeze Republican reaction to overspending. And they are right, too.

The Republican alternative is clearly superior to the Democratic bill, in that it kept faith with America's desire to cut Federal spending first. But even the Republican alternative does not contain any bold initiatives or innovative ways to deliver services better or more efficiently and consequently address the long-term budget and deficit problems.

I have an alarming sense of deja vu about all this. In fact, this is precisely where I came in. When I was elected to the Senate back in 1978, the Democrats were taxing and spending. And the Republicans were attacking spending.

It is true that there is an old proverb saying, "the more things change, the more they stay the same." But the American people thought last November that they were repealing that proverb.

With this bill, the U.S. Senate is doing its best to prove the people wrong.

What would I have done differently? Exactly what I tried to do in my own capacity as 1 Senator among 100.

I wanted—from day one of this administration—to set aside all the partisanship and all the posturing and credit claiming. If we in this body decided to work together instead of endlessly trying to score partisan points off each other, we could have reached a compromise far superior to this bill.

The price of our failure is the inevitable party line vote later this evening that will have us—and all Americans—all disappointed and angry.

We can still set this right. But not by tomorrow, and not before the July recess. We can set it right if we get to work on the really important issues of health care reform, welfare reform, education reform, and all the rest of the opportunities to really save money and cut spending by doing things differently and doing them better.

So I ask my colleagues to join me in spending the recess listening yet again to the message of the voters. They want us to drop the partisanship. They do not care who wins between Democrats and Republicans. They want us to accomplish something for them.

If we come back from the July recess with a renewed sense of bipartisanship and purpose, we could build on the success of new departures like the income-based education proposal.

That is one of the very few real reforms contained in this bill—it is a bipartisan achievement that will reduce our costs while increasing benefits because it delivers service in a different way.

We could do this in health care. We could do it in education. We could do it in welfare reform.

On all these issues, we are close to broad bipartisan agreement.

But I caution my colleagues: If the pattern of partisanship set by this bill is the pattern to be followed, we will not accomplish the kind of reform the American people want. This reconciliation bill just does not cut it. And the patience of the voting people in this country is not limitless. When we come back from the July recess, we had better have the courage to change—or the voters are going to have the courage to change us.

CONCORD COALITION

Mr. DURENBERGER. Mr. President, I rise today to alert my colleagues to the excellent work being done by the Concord Coalition in raising public awareness about the Federal budget deficit and other key problems of government in the United States.

In a recent letter, Darren Chase, the Minnesota State director of the Concord Coalition, made it extremely clear that the American people demand a reinvention of government. They want our public policies to be more productive, efficient, and accountable—and they will not take no for an answer.

I ask unanimous consent that a copy of this letter, along with a Washington Post op-ed by David Broder, be included in the RECORD at the conclusion of my remarks.

THE CONCORD COALITION,
Minneapolis, MN, June 23, 1993.

Senator DAVE DURENBERGER,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: I am writing you on behalf of the 3,000 members of The Concord Coalition of Minnesota and the thousands of others who share our concerns about the deficit. Since meeting with you in March, I have been extremely successful educating people about this issue and empowering them to demand results from our leaders. Recently, David Broder highlighted our efforts in the Washington Post.

It is plainly clear that eliminating the deficit stands as the most important issue for many thousands of concerned Minnesotans. We want our representatives to demonstrate non-partisan leadership in developing a comprehensive long range plan for balancing the budget. We accept that a balanced budget requires significant spending cuts as well as increased taxes and health care cost controls. We are prepared to sacrifice to achieve this goal.

Here is a sample of some of the recurring themes we are hearing:

"Spending should be cut before taxes are raised."

"I want better, smarter, more efficient government."

"The government gives too much money in entitlements to people like myself. I don't need it; I shouldn't get it. New spending should benefit the truly needy."

"I'm willing to do my part and pay higher taxes if they go to reduce the deficit."

"The AARP doesn't speak for me. I'm concerned about the future I'm leaving for my children and grandchildren."

"We are saddling our kids with a bill they shouldn't have to pay and may be unable to pay."

"I understand these are hard choices, and I will support my Congressman or Senator if he makes them. I will judge their actions based on their effects on the deficit."

President Clinton's deficit reduction plan and the Republican alternative announced by Senator Dole are equally unacceptable. Neither is a comprehensive long term plan to balance the budget. Both delay the real hard decisions until the future. Our Nation stands at an economic crossroads. The time for decisive leadership is now. We cannot afford to wait. We rely on you as our senior Senator to demonstrate courageous leadership during the coming days and hope that you work with other influential members of Congress to craft a bi-partisan plan to eliminate the deficit.

Senator Durenberger, know that an increasing number of Minnesotans share our convictions and beliefs. The time has come for us as a nation to make the hard choices and move forward. I look forward to meeting with you to discuss this matter further when you return to the Twin Cities. If you have any questions or desire additional information, please call me at work or home. Good luck!

Sincerely,

DARREN CHASE,
State Coordinator.

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

[From the Washington Post, April 21, 1993]

TRILLION DOLLAR BILL

(By David S. Broder)

Late last year Darren Chase was a 20-year-old Navy lieutenant with a fine seven-year record and a Pentagon assignment that premised a bright future. But he had a problem. "'My friends and fellow officers were good people," he recalled, "but there were thousands of us, spending every working hour defending our little piece of program and budget—and nobody was thinking about the country."

Chase decided to leave the Navy. After chancing unto a radio broadcast featuring former senator and former presidential candidate Paul E. Tsongas, he became a volunteer at the Concord Coalition. The organization was launched by Massachusetts Democrat Tsongas and fomer New Hampshire Republican senator Warren B. Rudman to build public support for strong measures to reduce the federal budget deficit.

Now the paid Concord Coalition organizer in Minnesota, Chase asked the key question at last week's initial national policy forum held by the coalition here in Washington. Cutting through a fog of economic forecasts and analyses, he said: "The people I talk with, outside Washington, are asking one question: Why don't we have a plan that gets the budget deficit to zero?"

President Clinton, Chase said, talks about how much he is cutting the deficit, and Congress says it is doing even more. But look at the numbers and the deficit is still slated to be $212 billion four years from now—and then increase!

Chase put his finger on the central weakness in the economic battle plan of the new Democratic administration. "We need something out there that the public can understand," Robert Reischauer, head of the nonpartisan Congressional Budget Office, told the Concord meeting a few hours after Chase had asked his focal question. "I doubt if the space program would have gone very far if President Kennedy had asked for the capacity to get a man 239,000 miles into space and back. We needed the moon."

Reischauer gave the relevant numbers: If you want to wipe out the budget deficit in 10 years, you will have to achieve an additional $48 billion of spending cuts and/or tax increases each year from now to 2003. If you want to do it in five years, it will take $12 billion a year more than that. By way of comparison, the five-year budget summit agreement of 1990 (which Congress has enforced, despite its repudiation by Bush in last year's campaign) saved $28 billion each year. Clinton is proposing $20 billion a year—less than half what it would take to eliminate the deficit in a decade by Reischauer's estimate.

The president and his advisers argue that they have gone as far as they can go, that steeper cuts might tip a fragile recovery back into recession. That is a legitimate policy view—but it is disputed across the political spectrum. Reischauer said a five- or 10-year plan to eliminate the deficit would "slow the economy perhaps one half percent a year, but not enough to abort the recovery."

At the same meeting, Paul Volcker, the former Federal Reserve Board chairman and symbol of financial caution, said, "I do not lose sleep worrying that we may cut the deficit too much." And Charles Schultze, the former Budget Bureau chief under President Carter and a Democratic partisan, said that while Clinton "has done a very good job of public education on why the budget deficit is important," his actual cuts are minimal. In a $6 trillion economy, Schultze said, "certainly something more would do no harm" to economic growth.

Officially, the Clinton administration is planning its hopes for additional deficit reduction on enactment of a health reform plan that will cut fast-rising medical costs. But privately, senior administration economic officials acknowledge that Schultze is right when he says that "in the next five years, even a highly successful health care cost control initiative will not produce any significant net savings to be used for debt reduction," once the costs of providing health care for the millions now uninsured are factored into the equation.

So there is no Clinton plan extant to eliminate the budget deficit. Instead, Clinton intends to join Ronald Reagan and George Bush as another of history's great budget-busters. He plans to add $937 billion to the national debt in four years. Given the history of underestimating deficits, he will almost certainly go into the books as "Trillion-Dollar Bill."

Shrewd as he is politically, Clinton has consistently been one beat behind the music in understanding that the public is ready to accept tough measures in order to stop the hemorrhage of deficit spending. In New Hampshire more than a year ago, he thought he had to sugarcoat the message by promising a middle-class tax cut—and was outflanked by Tsongas. Last fall, he was outflanked again on the deficit issue by Ross Perot. And now he is showing less courage on this issue than Congress.

He is leaving Darren Chase's question unanswered and denying himself the stature of

bold leadership his hero John Kennedy acquired when he said, "I think we should go to the moon."

In years to come, he and the nation will see this as a great opportunity lost.

PFIC

Mr. DASCHLE. Mr. President, I would like to engage the Senator from New York, the distinguished chairman of the Finance Committee Mr. MOYNIHAN, in a colloquy to clarify an outstanding issue from last year. The Finance Committee report accompanying H.R. 11, dated August 4, 1992, stated that equity issues had been raised with regard to the application of the passive foreign investment company [PFIC] rules to export trade corporations and that the committee would schedule consideration of this matter at the earliest possible date.

Could the chairman reconfirm that the committee will take up this issue at an appropriate time?

Mr. MOYNIHAN. Yes, that is the committee's intention.

TAX-EXEMPT BOND FINANCING FOR HIGH-SPEED GROUND RAIL

Mr. GRAHAM. Mr. President, as part of his original budget and later his reconciliation legislation submitted to Congress, President Clinton proposed to remove the volume cap limitation on the use of tax exempt financing for high-speed rail and magnetic levitation systems. This measure is included in the House reconciliation bill, and the Senate voted to approve this same provision in the last Congress.

Not only is this tax exempt bond measure modest in cost, it has been identified as a key to leveraging the necessary private investment to develop these innovative and environmentally sound forms of transportation. In many areas of the country, there is a critical need to develop infrastructure and transportation systems that will help relieve the burden on the existing system.

In Florida, for instance, there is agreement at all levels of government on the corridor which should be developed and widespread excitement about bringing a high-speed system on line. Yet, Federal, State, and local governments simply do not have the financial resources to build these projects, so private participation is essential. At the same time, private industry is reluctant to take the lead without a signal from government that these projects are a priority; the tax exemption is just the right incentive.

As part of the effort to scale back the tax portion of reconciliation in the Finance Committee, the high-speed rail provision unfortunately became one of the many private-sector incentives that were eliminated from the bill. The chairman of the Finance Committee, the distinguished Senator from New York, has been a supporter of this amendment in the past. He is a leader in encouraging the development of innovative transportation systems. These new systems will be an important component of the defense conversion effort that the President has identified has a highigh priority.

Although I do not intend to offer an amendment today to restore the President's provision lifting the volume cap on high-speed rail and maglev projects, I remain hopeful that the House language will prevail in the conference. I would like to encourage the Senator from New York to accede in the conference negotiations the House position on this matter of tremendous concern to advocates of high-speed rail.

TITLE XIII OF S. 1134—VETERANS PROGRAMS.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise to comment on title XIII of the fiscal year 1994 budget reconciliation measure.

Title XIII contains provisions to comply with instructions contained in section 7(b)(12) of the concurrent resolution on the budget for fiscal year 1994, House Concurrent Resolution 64, requiring the Committee on Veterans' Affairs to report changes in laws within our jurisdiction sufficient to reduce outlays for veterans' programs by $266 million in fiscal year 1994 and a total of $2,580,250,000 during fiscal years 1994–1998.

Pursuant to section 7(b)(12) of the budget resolution and action by the committee at a June 10, 1993, meeting, the Committee on Veterans' Affairs submitted legislation to the Budget Committee on June 14, 1993, recommending the required reductions. Estimated savings from that legislation would exceed the 5-year period required savings of $2.58 billion by approximately $29 million. According to CBO estimates, the committee legislation would produce net savings of $2.609 billion in outlays during fiscal years 1994 through 1998.

SUMMARY OF PROVISIONS

Mr. President, title XIII of the bill contains provisions that would make changes in laws relating to VA compensation and pensions, health care, educational assistance, home loan guarantees, and income eligibility for certain programs. These provisions would:

First, in section 13001, make permanent the current $90 limitation on monthly pension payments for veterans and surviving spouses who have no dependents and are receiving Medicaid-covered nursing home care.

Second, in section 13002, require that the fiscal year 1994 cost-of-living adjustment for veterans disability compensation and dependency and indemnity compensation be rounded down to the next lowest whole dollar. Section 13002 also would require that the effective date of the fiscal year 1994 COLA be no earlier than December 4, 1993.

Third, in section 13003, increase, effective October 1, 1993, the amount of the pay reduction servicemembers must make to qualify for educational assistance under the Montgomery GI bill [MGIB]. For fiscal year 1994, the amount would be increased from $100 to $137 a month for the first 12 months of military service, total contribution increase from $1,200 to $1,644. After fiscal year 1994, the pay reduction would be increased by the same percentage as the automatic cost-of-living adjustment in MGIB benefits.

Fourth, in section 13004, make permanent the current requirement that VA consider its average resale loss in the formula VA uses to determine, upon foreclosure of a VA-guaranteed home loan, whether to acquire the property and resell it or simply pay off the guaranty.

Fifth, in section 13005, increase the fee that borrowers pay for certain VA-guaranteed home loans by 0.75 percent of the loan amount, which would increase the basic fee for veterans from 1.25 percent to 2 percent of the loan.

Sixth, in section 13006, make permanent VA's current authority to recover from a veteran's private medical insurance the cost of medical care provided to service-disabled veterans for nonservice-connected conditions.

Seventh, in section 13007, make permanent VA's authority to collect copayments from certain veterans for certain health care services and for medications furnished on an outpatient basis.

Eight, in section 13008, make permanent VA's current authority to verify veteran's eligibility for VA need-based benefits using Internal Revenue Service and Social Security Administration income data.

DISCUSSION

Mr. President, if it were not for the reconciliation requirements and the enormous—and growing—need for deficit reduction, I would not recommend any of the provisions in this package. The task of cutting programs and charging fees for veterans benefits and services certainly is not a pleasant one, but our committee has satisfied its reconciliation instructions with provisions that are the least harmful to veterans of any alternatives available to us.

Mr. President, most of the credit for the humane manner in which veterans are being asked to contribute to deficit reduction must go to the best friend veterans have ever had in the White House—Bill Clinton—and to one of their own who is doing a great job heading the Department of Veterans Affairs—Secretary Jesse Brown.

Mr. President, all but one of the provisions in our committee's reconciliation package were included in the President's proposed reconciliation package, which formed the basis of the reconciliation instructions Congress adopted in the budget resolution.

Mr. President, the vote in our committee on this package demonstrates

the skill and fairness that President Clinton and Secretary Brown put into the deficit-reduction package that they proposed in the administration's budget. The vote was unanimous—all of our committee's Democrats and all of our committee's Republicans joined together in an overwhelming show of support for this package. I commend each of my colleagues on the committee for this bipartisan accomplishment.

Mr. President, all of my colleagues are painfully aware of the enormous difficulties we face in cutting Federal spending for popular, important programs such as veterans benefits. Those who refer to this legislation as a tax bill are conveniently ignoring the real spending cuts it contains.

Those who say that President Clinton is not making the tough choices he promised to make ought to take a look at the veterans programs portion of this bill. There couldn't be any tougher choices—either politically or in practical, human terms—than the choices President Clinton and our committee made in constructing this part of the reconciliation bill.

Mr. President, there is no other part of this bill that demonstrates so clearly how this administration has made the bold, courageous choices that no one previously had been willing to make.

This is leadership.

This is political courage.

And, if you look carefully at these provisions, this is budget cutting with compassion and concern for the real people who will feel its effects.

Mr. President, we should not forget that the real heroes in this process are—not surprisingly, perhaps—veterans themselves. Veterans organizations indicated at the beginning of this process that veterans are ready and willing to contribute their fair share toward deficit reduction. The legislation approved by our committee reflects veterans' commitment to share in the sacrifices and reflects our commitment to ensure that those sacrifices are fair.

COMPARISON WITH HOUSE PROVISIONS

Mr. President, the alternatives that our committee rejected actually highlight the fairness of the package we approved.

The veterans programs package in the House-passed reconciliation measure contained several provisions that were not part of the administration's proposals—provisions veterans strongly oppose. Our committee did not adopt these provisions.

Mr. President, one of the House provisions we did not adopt would authorize VA to seek reimbursement from a veteran's private medical insurance for medical care VA provides for service-connected conditions. There was considerable discussion of this House provision during our committee's markup.

Members universally opposed the idea of shifting responsibility for paying the costs of service—connected care from the government to private insurers. Members of our committee agreed that this would abrogate one of our government's most fundamental responsibilities. Many of us also were concerned about the effects this might have on the availability and cost of private health insurance for disabled veterans.

Mr. President, another House provision would eliminate the cost-of-living adjustment for veterans' survivors who receive dependency and indemnity compensation according to the payment system that existed prior to the major DIC reforms we enacted last year in Public Law 102-568. When Congress enacted that law, we in the Senate indicated that we intended to provide COLA's to all DIC recipients, regardless of the formula under which they receive benefits. The House provision is not fair and would contradict the promises we made last year.

Mr. President, the House also included a provision that would reduce the automatic cost-of-living adjustment in educational assistance benefits under the Montgomery GI bill by 1 percentage point, thus scaling back the expected 3-percent increase to 2 percent. The Senate package does not include this provision, either.

Finally, the House also included a provision to restrict chapter 35 education benefits for dependent children to the natural and adopted children of veterans. This would eliminate eligibility for veterans' stepchildren, who currently may qualify for these important benefits. The Senate legislation contains no equivalent provision.

The final difference between this package and the House bill is that the House legislation extends certain expiring, spending-reduction provisions derived from the Omnibus Budget Reconciliation Act of 1990 only through fiscal year 1998, while the Senate bill would make these provisions permanent.

CONCLUSION

Mr. President, as I noted earlier, I would not recommend any of these proposals under other circumstances. However, we are obligated to meet our reconciliation instructions and I believe that this package constitutes the most appropriate and least-harmful means of fulfilling our obligation.

Mr. President, I urge my colleagues to support this measure in the same bipartisan manner our committee demonstrated in adopting the veterans programs portion of this bill.

ERISA VIOLATIONS AND CIVIL PENALTIES

Mr. DODD. Mr. President, I rise in strong support of the agreement reached by Senators METZENBAUM, KENNEDY, and KASSEBAUM on this important provision.

First, I must compliment them on their efforts to hammer out this compromise. ERISA is not a simple issue, but few issues are of more importance to workers and to businesses—it impacts on employee benefits across the board from pensions to health care.

Nothing demonstrates this as clearly as the issue before us today, involving the pensions of thousands of Americans affected by the collapse of the Executive Life Insurance Co. several years ago. I would note that this is an issue of deep concern to me, because nearly 2,400 pensioners in Connecticut are awaiting the outcome of one of the suits possibly affected by the Mertens decision.

However, the Mertens decision is only a few weeks old and I for one appreciate the extra time this agreement provides us with to continue to work on this matter in a reasoned and constructive way.

I look forward to continuing to work on this matter and assuring a fair and equitable result for these workers.

TITLE 12, SUBTITLE D, CHAPTER 2

Mr. KENNEDY. Mr. President, I rise in support of Senator METZENBAUM and Senator KASSEBAUM's motion to strike those provisions in title 12, subtitle D, chapter 2 of the Budget Reconciliation Act. These provisions would have added a new civil penalty for violations of the pension and welfare benefits laws in civil suits brought by private litigants and would have clarified the availability of certain kinds of monetary relief for violations of the pension and welfare benefits laws.

A week ago, because of a June 1 decision of the Supreme Court in Mertens versus Hewitt, the Labor and Human Resources Committee, at the request of the Department of Labor, voted in our markup of the Labor Committee portion of this bill, to address the problems created by the Mertens decision as quickly and as cleanly as possible. We did so particularly in order to ensure that the plaintiffs in cases stemming from the collapse of the Executive Life Insurance Co., which left thousands of workers holding retirement annuities purchased from Executive Life, would be able to salvage their pensions.

As many of my colleagues are well aware from a number of hearings Senator METZENBAUM has held and because of the impact on hundreds and thousands of pensioners in their States, Executive Life involved a situation where employer-fiduciaries terminated their company pension plans and purchased in their stead insurance annuities to pay out the workers' pension benefits. The employers did this despite the fact that it was well known that Executive Life was over 60 percent funded by junk bonds.

In 1991, Executive Life was forced into bankruptcy. As a result, the beneficiaries have lost some of their pension benefits and they live month to month not knowing if they will be able to collect the full value of the pensions they were promised.

The responsible fiduciaries who had been advised that the substitution was not a safe investment, and who are themselves persons of significant means, should be held responsible for their actions and should be required to provide the full worth of the pensions which these working men and women were promised.

In Massachusetts alone, at least 404 workers from Grinnell Corp., 115 workers from Henry Hanson, and 196 workers from Widden Hospital worked for companies who purchased Executive Life Annuities.

Other litigants are in similar positions. Their ability to obtain the full value of their annuities is also threatened by recent court decisions which provide that beneficiaries of retirement plans which have been terminated no longer have standing to challenge those violations.

Instead of seeking relief through the budget process, we have agreed to work together on what we hope will be bipartisan legislation to address these pension annuity problems. We intend to hold hearings expeditiously, and to seek early action on such legislation by the Committee and the full Senate.

I commend both Senator METZENBAUM and Senator KASSEBUAM for their cooperation in this matter. I am hopeful that the committee will soon bring forward legislation to ensure that pension promises are kept.

CLARIFY THE EMPLOYMENT STATUS OF CERTAIN FISHERMEN

Mr. KENNEDY. Mr. President, for the past 4 years we have been trying to resolve a tax problem that threatens the overall economy of southeastern Massachusetts, and particularly the hardworking fishing families of New Bedford, a city with an unemployment rate of 13.7 percent.

The problem arose in 1988, when the Internal Revenue Service adopted an unexpected and controversial interpretation of the status of crew members on small fishing vessels. When the IRS abruptly changed its rules and attempted to enforce the new interpretation retroactively for several years, it chose New Bedford as a test case, subjecting the boatowners there to an action for back taxes, penalties, and interest amounting to about $11 million.

Since that time, the IRS has agreed to hold off on its action, in the expectation that Congress would clarify its intent with respect to these rules. From 1989 through 1991, there were no tax vehicles to which we could attach the corrective provision needed to provide relief to the family fishing businesses that are the backbone of the southeastern Massachusetts economy. Last year, we were able to get the necessary language included in both tax bills that were approved by Congress—section 7705 of H.R. 11—but those bills were vetoed by President Bush. I would be very interested in the views of the chairman of the Committee on Finance on this issue.

Mr. MOYNIHAN. I am sympathetic with efforts by the Senator from Massachusetts to resolve this longstanding problem, and I support the corrective provision that was contained in last year's tax bills. I would have included this same provision in the tax legislation currently before the Senate, but for the possibility of a point of order arising under the budget rules that restrict what can be contained in reconciliation packages. It is my hope and expectation that the Finance Committee will include this provision in the earliest available tax bill, or that even before that opportunity arises, we will be able to convince the IRS to interpret the law as Congress clearly intends, based on last year's legislation.

Mr. KENNEDY. I greatly appreciate the chairman's support and understanding of the urgency of resolving this problem. This unfair action by the IRS has plagued the hard-working fishing families of New Bedford for too long. I look forward to settling this dispute fairly once and for all.

CIAC

Mr. REID. I believe the chairman of the Finance Committee is familiar with an issue that is very important to me, namely the taxation of capital contributions made to water utilities. S. 289 is a bill of mine that seeks to restore the historical treatment of this capital known a CIAC. In fact, he was a cosponsor of my legislation to repeal this tax during the 102d Congress, if I am not mistaken.

Mr. MOYNIHAN. The Senator is correct. I was a cosponsor of this legislation last Congress.

Mr. REID. Is the chairman aware that the legislation is revenue neutral, and that the offset for this amendment would raise more than $30 million over the life of the estimate by the Joint Tax Committee.

Mr. MOYNIHAN. Yes.

Mr. REID. I am aware that the chairman is asking that Senators refrain from offering nongermane amendments, a request I have respected. However, I would ask for the chairman's positive consideration of S. 289, or as part of a larger package, later this year.

Mr. MOYNIHAN. The Senator has my assurance regarding his request.

Mr. REID. I thank the distinguished chairman.

INDIAN EMPLOYMENT AND INVESTMENT ACT OF 1993

Mr. BOREN. Mr. President, I rise in support of the Indian Employment and Investment Act of 1993, legislation sponsored by my distinguished colleagues, Senators INOUYE and MCCAIN, and which I and others have cosponsored. This important tax proposal is promoted by the Navajo Nation, the Cherokee Nation of Oklahoma, and many other tribes across the United States. It would provide essential tax credits for businesses that create employment and invest in equipment and other property on or near Indian reservations. I am proud to support this critical legislation because I firmly believe that it will ameliorate the deplorable condition in Indian country. It will help stimulate the development of viable reservation and other tribal economies and more fully integrate them with the national economy. Furthermore, the legislation would extend the benefits of the investment tax credit to Oklahoma tribes and other tribes in similar situations by allowing one-half of the otherwise available credit on Indian reservations whose unemployment rate is between 150 and 300 percent of the national average.

Last year the Senate adopted, by a lopsided vote of 79 to 16, an amendment to H.R. 11 that incorporated the provisions of the Indian Employment and Investment Act of 1992—identical to the legislation reintroduced in 1993. These tax provisions were accepted in conference and would be law today but for President Bush's veto of H.R. 11 last fall.

Mr. President, the Senate Finance Committee did not include the empowerment zones proposal in the revenue provisions of this bill because they were subject to challenge under the budget rules. It is my hope that when the conference considers the empowerment zones provision that was passed by the House of Representatives, the conferees will replace the Indian portion of the provision with the Indian investment and employment tax credit. This provision would provide more meaningful relief to economically distressed areas populated mainly by native Americans.

Mr. LEVIN. Mr. President, listening to this debate on the budget reconciliation bill reminds me of watching two great armies firing barrage after barrage at each other. Amidst the exploding shells filled with charges of fiscal irresponsibility and the rumblings of recriminations for actions taken and not taken over the past decade, it is important to keep a few simple facts in mind and, then, move on to solutions.

First, the economic legacy of the 1980's is a combination of Presidential misdirection and congressional approval that produced an explosion of debt. Why? Spending increased and revenues were cut at the same time. This was a sure recipe for increased debt, unless you believe in magic or supply-side economics. As a percentage of GDP, all Federal revenues dropped from 19.6 percent in 1980 to 18.6 percent in 1992. All Federal spending increased from 22.3 percent in 1980 to 23. 5 percent in 1992. In order words, revenues declined by 5 percent and Federal spending increased by 5 percent.

Second, if we pass this legislation, the public debt 5 years from now will

be hundreds of billions of dollars lower than it otherwise would be. True, in absolute terms the public debt will still continue to grow during these years because we would still be running annual deficits. That is true of any comprehensive budget plan offered during this debate, whether that plan be Republican or Democratic. But, the rate of growth of the public debt will slow down. That slowing in the growth of the public debt is the first essential step to putting our fiscal house back in order.

Third, spending cuts are necessary if we are to have serious and credible deficit reduction.

But, if our goal is to have a deficit reduction package that is not only substantial but also shares the burden, some tax increases will be necessary. For example, a plan without any tax increases could exempt from the deficit reduction effort a 50-year-old corporate executive making several hundred thousands of dollars a year. I do not feel comfortable—and I do not think that the American people will feel comfortable—with an economic plan in which the wealthiest among us would stand on the sidelines as middle-income people carry the burden of deficit reduction. As I see it, the slogan that "all tax increases are evil" is about as valid as the slogan "no more spending cuts are possible." If we are going to beat this deficit and beat it fairly and squarely, we will have to hit it with both fists, spending cuts and tax increases.

Fourth, substantial deficit reduction is essential if we are to have any hope of keeping long-term interest rates down and driving them even lower. With lower long-term interest rates, businesses will have the incentive and the ability to invest in long-term improvements and create jobs, and individuals will have a greater capacity to purchase items like homes and appliances and cars. Moreover, substantial deficit reduction is essential if we are to leave our children and grandchildren a promise of opportunity and not the prospect of oppressive debt.

The budget reconciliation bill before us today recognizes these realities. When combined with the remainder of the Clinton deficit reduction plan, it will cut the deficit by more than $500 billion over 5 years with more than half of the deficit reduction coming in the form of spending cuts. These spending cuts include cuts in defense and nondefense discretionary programs as well as cuts in agricultural subsidy programs, Federal retirees' COLA's, Medicare, and from student loan reform.

At the same time, the revenue increase in this bill is focused on the wealthiest taxpayers. Almost 80 percent of the tax increases will fall on people with incomes of over $200,000. These are the people who saw their income increase the most and their effective tax rates cut the most during the 1980's. For several years now, I have supported the restoration of fairness in the Tax Code that was eroded during the Reagan years. I am pleased to see that this bill has taken some significant steps in that direction. As for the remaining revenue increases, no one likes to legislate a broad-based tax.

Mr. LAUTENBERG. Mr. President, I will be voting against the reconciliation bill. This has been a very difficult decision for me, because I, too, want to shatter the Washington gridlock. But, I refuse to use the people of New Jersey as a battering ram.

Mr. President, as a member of the Senate's Budget and Appropriations Committees, I have worked hard to reorder our budget priorities. I have worked to cut out wasteful spending and to allocate a far greater share of our scarce resources to investing in a stronger and more competitive economy, regional equity, and a more just society.

Instead, as the budget and appropriations process unfolds, we are getting more of the same. We have a budget that still provides for massive subsidies to agribusiness and for miners, ranchers, and others profiting from the use of public lands. We have a tax system that leaves the oil, gas, and mineral industries with preferential tax treatment, but a proposal to raise taxes on small businesses, middle-class Americans, and our senior citizens.

We are moving to spend billions of dollars for the space station and super collider—projects without a mission—but we are cutting Medicare and rejecting incentives to revitalize our cities and encourage investment in small businesses—the source of the lion's share of new jobs in New Jersey and the Nation. As our infrastructure crumbles, we spend less per capita than 54 other nations to invest in the building blocks of a sound economy and environment.

My concern is very fundamental. This bill, and the budget of which it is a part, would shortchange the hard-pressed people of my State, their needs and their hopes for an economic recovery.

This bill is a bad deal for New Jersey. While it is hard to shoot at a moving target, every study I've seen indicates that New Jersey will get the short end of the stick in this package, paying a relatively large share of the taxes collected and getting very little in return.

Mr. President, the people of New Jersey are hurting. We are suffering through the longest recession since the Depression. Unemployment in New Jersey remains high, well over the national average. In the last year, New Jersey had a rate of business failures three times the national average. The state has lost 325,000 jobs in recent years.

If this is deemed a recovery, it is a jobless recovery. Confidence is low. Weak consumer spending is placing a real drag on business activity. At the current rate of job growth, it will take 6 years just to gain back the jobs New Jersey has lost. Those who still have jobs face some of the highest living costs in the Nation. They know, without reading any statistics, that their incomes are lagging behind the increased costs of living.

We face an urgent need to get our economy growing again. Create jobs. Put people back to work. Invest in our future.

Earlier this year, the President proposed a package of measures to stimulate the economy. I supported that plan vigorously. In fact, I called for a targeted job-creating infrastructure stimulus proposal over 18 months ago. But it stalled. And our economy remains stalled.

The budget before us does not, in my view, hold the promise of getting our economy going. Instead of reinvigorating our economy and getting people back to work, this bill would take money out of our pockets and could further threaten any recovery.

Missing from the budget are the kinds of things that benefit our economy and my region—investments in infrastructure, technology, our cities, education, our kids. Incentives for small business to prosper. The kinds of investments that could get the economy moving.

Instead, it would raise taxes on middle-class and older Americans. Gas taxes will increase. Taxes on Social Security benefits for many middle-class Americans will go up. And owners of many small businesses will be hit with a significant tax hike. And this is being proposed without cutting spending for programs that may have strong lobbies, but which we cannot afford. Programs that contribute nothing to our future. Taxes will be raised, and hundreds of millions of dollars will flow out of New Jersey to pay for things that have no place in a budget.

The message I'm getting from back home is: Senator, stand up for us. Take the steps needed to get the economy moving. Cut unnecessary spending and don't raise taxes until you do.

Can we honestly say that the Congress has really gone the extra mile, and really done all it can to eliminate wasteful spending? I don't think so.

Not when we're still spending billions to provide a defense shield for our allies, who hide behind it and invest their resources in ways that disadvantage us in the international marketplace.

Not when we are still apparently going to fund low-priority projects like the superconducting super collider, the space station, and the advanced solid rocket motor.

Not when we can't bring ourselves to end the subsidies for huge, profitable agribusinesses.

Not when we cave into interests defending the giveaway of our public lands to the mining industry.

And not while we continue to have a tax system that leaves the oil and gas industries with their tax loopholes while defending them against energy tax increases.

I know it is hard to eliminate the spending and the special interest tax breaks. But until we do, middle-class people in New Jersey don't want to pay the price. And, I don't blame them.

The people of my State already are sending more money to Washington, and getting less money back, than most Americans. They really resent that. I resent that. And this bill would make the situation worse.

New Jerseyans are willing to sacrifice for a better future for their kids and for our country, but they reject tax increases before we have ended wasteful Government spending. Today I stand with them in protest.

I still hope that as this session of Congress unfolds that we will do the things our citizens asked for last November—support the kinds of investments in our economy and people that can build a better future. Reduce the deficit by cutting out programs that may make sense here, but make no sense outside the beltway. Take steps that will create jobs and get our economy back on track.

I will work hard to accomplish those goals. But, I cannot, in good conscience, ask my people to pay the price exacted in this proposal. Mr. President, I yield the floor.

Mr. GLENN. Mr. President, like many of my colleagues here today I was willing to give Ronald Reagan's experiment in supply-side economics a chance. But unlike some of my colleagues, I soon recognized that Reaganomics was a time bomb. A time bomb that has exploded into debt and deficits that will prove fatal to our economy.

Over the last few days, I have heard arguments all too reminiscent of the early eighties. Well, you can draw me chart after chart, graph after graph, but you will never draw me back into the fairy tale land of feel-good solutions. Our Nation's fiscal crisis is dead serious. It cannot be cured by sound bites and one liners. Let us close the door on that era of hollow promises and harsh consequences. Our situation requires tough action.

And that is why I voted against the alternative offered by my colleagues on the other side of the aisle. That is not change. It is just more of the same. More rhetoric. More sound bites. Hollow promises and harsh consequences. I am not going to vote for something that is not real. Cuts that are not specific.

But there is more at play here on the Senate floor. I just had an election in my State where Washington spin doctors supplied my opponent with ammunition to be used against me. And what was that ammunition? Partisan rhetorical votes just like the votes that we are going through today. Votes on amendments that were offered not for any legislative goal. No, the goals were only political—create campaign fodder for attack ads. That is what it is all about.

And do not tell me that the spending cuts in this bill are not real. They are real all right. They are real for the Ohio farmer who will see his farm payments go down. Real for military retirees in Ohio who will see their income fall. Real for the Federal worker and Federal retiree in Ohio. They are not happy about the cuts in this bill. Tell them these cuts are not real. And they will tell you a thing or two. And do not tell me the Medicare and Medicaid cuts in this bill are not real.

Yes, this budget includes taxes. Call them revenues, call them whatever you want. All of us here know that they are necessary. Necessary, that is, if you are serious about getting our fiscal house in order. A significant reduction in the deficit will require a mix of spending cuts and tax increases. You cannot do it with spending cuts alone. We all know that.

But it is important to note that this bill does contain more spending cuts than tax increases. It is a $516 billion deficit reduction package. And the majority of that—52 percent—is made up of spending cuts. That is $267 billion in spending cuts.

And still we stand here and argue back and forth while the national debt looms out there like the muffler repairman who says, "You can pay me now, or pay me later." But in this case, it is our children and our grandchildren who will be paying the bill.

In April, I held a series of economic conferences in Ohio. I went to every corner of my State and heard a lot of different things. One of these things, was that the Btu tax was bad for Ohio. And I do believe that this tax disproportionately impacted my State. I told the President so. And I am relieved that it is not part of this package.

But there is one view that was shared by all Ohioans who attended these conferences—something has got to be done. Ohioans knew it would be a bitter pill. But one they knew they had to take.

And it is high time that we asked those who reaped the benefits of the high rolling credit card eighties to take their dose of this bitter medicine. And they will with this budget. Eighty percent of the individual tax burden will be borne by America's wealthiest citizens—those making over $200,000. It is not class warfare. It is just fair. The middle class has been picking up the tab for 12 long years.

It is time we reverse this trend. A trend in which the wealthiest 1 percent of Americans—Americans who saw their incomes rise by almost 50 percent—had their taxes cut by almost 25 percent. And a trend where middle and lower income Americans saw their tax burden increase—while their incomes were stagnant.

We all hear time and time again that we were sent to Congress to cast the tough votes. That is what I heard during my reelection contest last year. Ohioans said, "We're willing to do our fair share. Just be honest with us. Be honest about our Nation's problems." That is why the people of Ohio sent me back to the Senate and that is what I intend to do.

And the honest truth is that our national debt is a cancer on our economy. In effect, interest payments on this monstrous debt constitute a tax on our economy that is gobbling up America's prosperity. And it has a stranglehold on the American dream—the dream of opportunity that I want to pass on to my grandchildren. That is what we face. And its time we confronted it head on. Not with charts and graphs. Not with cartoons and one-liners. But with real action.

Mr. President, it is the unfortunate, sad truth that Americans have grown skeptical about our actions here in the Congress. They have grown weary of the bickering. Weary of the shenanigans. They expect honesty. And that's what they deserve. No more bells and whistles. No more gimmicks, no smoke and no mirrors. Just the facts. And politicians who will face up to the facts, and make the hard choices.

And supporting this bill is a hard choice. I do not like every page, every provision, every punctuation point. I do not think this bill is Nirvana. It is not. In fact, there is a great deal here I don't like. There are things that I hope will get worked out in conference—and you can bet that the conferees will be hearing from me.

But there is one thing that is far worse than even the most distasteful provision in this bill. And that is inaction. It is time to act. And it is high time for honesty here in this town. It is time to come clean about what needs to be done. It is no fun voting for taxes. It is much easier to oppose them.

And it is not easy to vote for spending cuts that will hit the elderly, that will hit retirees, that will hit farmers, that will hit Federal workers. It is much easier to oppose these cuts. But I am not here to take the easy way out.

I am here to make the hard choices. To do what is right for my State—and for the Nation. And, Mr. President, that is why I am going to vote for this bill.

BUDGET RECONCILIATION

Mr. JEFFORDS. Mr. President, I rise today to oppose the entire bill. During the past few months, the Senate has been carefully reviewing the President's economic proposal and we are

presently considering the newest installment in this process, the omnibus budget reconciliation bill, S. 1134, which contains many aspects of that proposal. This proposal does not meet my goal, or the President's, of matching every dollar in increased taxes with a dollar in reduced Government spending.

First, I would like to make it clear that there are many provisions within this proposal that I could support. But, as I learned from the 1990 budget agreement, where there was supposed to be some $500 billion in budget reductions over a 5-year period, the tax increases were immediately implemented, but the spending cuts never seemed to materialize. The 1990 tax package, sought to enforce strict budgetary limits and targeted spending reductions. I can only hope that the bill we are currently considering will place enforceable budgetary caps and spending reductions.

Furthermore, I would have supported the administration's original goal of about $2 in spending cuts for every $1 in tax increases. It is understandable that this goal slipped, and indeed I would have been satisfied with a proposal that had an equal amount of tax increases and spending cuts. It strikes me as fair to ask the American people to pay more in taxes if the Government will reduce its spending by the same amount, in effect meeting the public half way.

Unfortunately, this measure fails to even come close to this goal. It contains close to $270 billion in tax increases and user fees over the next 5 years, and just over $80 billion in spending cuts over the same period. I think a 3-to-1 ratio of tax increases to spending cuts is just too steep.

The bulk of budget savings, approximately $76 billion in the proposal, come from Medicare and Medicaid. I can not, and will not support any measure that unfairly singles out one group or groups for deficit reduction, particularly those individuals who can least afford it, such as the elderly and the poor. The fact is that much of this reduction in Federal spending, if enacted into law, will be simply cost-shifting to people covered by private health insurance.

In 1998, at the end of the President's program, the deficit is expected to be around $240 billion, just about what it was in 1990. From that point on, it is expected to rise steadily. For these reasons, this proposal does not make the fundamental structural changes in Federal domestic spending necessary to create viable and sustained deficit reduction.

Further, this proposal in fiscal year 1994 has $9 in tax increases for every $1 in spending cuts. It does not meet the goal of $1 in tax increases for every $1 in spending cuts, the President's pledge, until fiscal year 1998. To borrow a phrase from the President: We can do better and we must do better in our efforts to change America's economic future. We must ensure that real spending cuts at least equal the tax increase in this proposal.

I had hoped that Congress would improve upon the original proposal offered by the President. Instead, we have a Senate bill that proposes tax increases on Social Security benefits, as well as a 4.3-cent tax increase on transportation fuel. I feel an increase in the tax on Social Security benefits is not the place to start. Furthermore, I believe that the proceeds from any tax on energy, such as the proposed gas tax increase, must be dedicated to two purposes: improving our infrastructure and developing a viable alternative fuels industry to reduce our dependency on imported oil.

In order to truly address the Federal deficit, all Americans, senior citizens included, should share in the necessary sacrifice. However, eliminating Social Security benefits disproportionately affects individuals on a fixed income. While Social Security should not be excluded from the debate on deficit reduction, we must assure that our efforts to reduce the deficit not lead to a disproportionate sacrifice by the needy.

For all these reasons, I must vote no on this measure. We have got to start making the hard choices instead.

Moreover, as many of my colleagues have stated throughout this debate, to significantly lower the Federal deficit, budget reform must go hand in hand with health care reform. We can no longer afford to deceive ourselves into thinking that tinkering with Medicare and Medicaid is the answer to our country's deficit problem. Health care plays such an important role in our economy, that without overall health care reform, not only will the deficit continue to grow, but the economy will continue to suffer. Health reform can only be achieved if it is complete, including all segments of society, working people in addition to the Medicare and Medicaid population.

I believe both my Republican and Democratic colleagues understand that we need a seamless system for good health policy. Yet, the budget proposals offered today contradicts what we know is necessary for good health policy.

We have heard a great deal about the 37 million uninsured and the inequities in our current health care policy. What we don't focus enough on is the fact that Federal entitlements and the deficit are growing largely due to the impact of health care inflation. By the end of this year, we will spend more than $912 billion on health care. That's a lot of health care, more than any other industrialized nation in the world. The public sector currently spends $422 billion on health care, $286 billion in Federal spending. The private sector spends $490 billion. The bill cut Medicare and Medicaid by $76 billion in public health care spending. But without any more reform, this will simply shift health care spending, adding to the already numerous health care cost problems in the private sector. We should not forget that private sector spending results in substantial foregone Government revenue, too. This is due to the fact that health care is tax deductible by businesses. In fact, CBO predicts that if we continue with our current health care system and spending habits, by the year 2000, the public sector will spend $832 billion on health care, $583 billion of which will be in Federal spending. Private sector will grow to $800 billion.

That means that by the year 2000, we will spend $1.6 trillion on health care. In percentage terms, this will represent 27 percent of the overall Federal budget. State and local governments will be spending an additional 18 percent on top of this amount. How much spending on health care is enough?

Well, we already spend $3,100 per person on health care. By comparison, we spend $1,700 per person on education and $1,200 per person on national defense. In fact, per capita health care spending has and will continue to increase twice as fast as per capita GDP growth unless health care reform is enacted. This is bad news for both the budget and the economy. Moreover, we are spending more on health care than any other country in the world. On a per capita basis, we spend 1.5 times more than Canada, 1.7 times more than West Germany, and $2.6 billion more than Great Britain.

We are spending a great deal on health care, but we are financing and delivering health care in a very inequitable and irrational way. We need to rationalize the system, give health care to everyone, and pay for health care for everyone, in a straight forward, across the board fashion. When we do this, we will find that health care can be provided so that all but the poor will pay 6 percent of a person's adjusted gross income. For most people, this could be collected in the form of a payroll premium, 4 percent paid by the employer, 2 percent paid by the employee.

This is much less than the 22 percent of payroll many auto companies and small employers currently pay for health care. Costs are high for many companies because everyone is not paying their fair share and the costs of uncompensated care and very sick individuals are not evenly borne by all.

With an all inclusive health care financing scheme, businesses will be able to reduce product prices and become more competitive. Additional workers could be hired. Fair financing for health care will also free up money to be used to provide pensions, education

benefits and higher wages to employees. This translates into a higher standard of living and better quality of life for all American families.

But we can't stop there. We also need a health care budget. We have too many inefficiencies in our current health care system. Americans currently pay for administrative waste, fraud and abuse in claims processing and defensive medicine, that should not be in the system. This is the kind of health care spending nobody needs. Many people believe managed competition will squeeze much of the waste out of our health care system. However, a health care budget will ensure that waste is eliminated. Over the next decade, if growth in health care spending were limited to growth in GDP, we could cut the federal deficit in half.

Finally, health care delivery systems must be created and evaluated at the State level. States are more accountable and able to respond more quickly to the needs of the people than the Federal Government. States must have the flexibility to design the delivery system that works best given each State's demographic and geographic needs. We are a diverse country with diverse needs, State flexibility will account for this and ensure that everyone's health care needs are met in the best possible way.

I have incorporated all these elements of good health care policy that translates into good budget policy in S. 1057, the MediCORE Health Act of 1993. The bill ensures that every citizen has access to a CORE set of health services. It provides a broad based financing scheme to pay for these benefits. Moreover, it sets strict budget goals to be administered by the States, to make sure health care is affordable. Finally, it gives States the flexibility to design the health care delivery system that is most ideally suited to the needs of its people.

Mr. President, once Congress tackles health care costs, our Federal budget problems should largely be under control. Therefore, the next choice Congress must address is reprioritizing expenditures in the Federal budget. The area needing the most attention is American education.

Dealing with the budget process, the reconciliation instructions to the Senate Committee on Labor and Human Resources was to reduce $4.6 billion from covered expenditures. The administration planned to achieve these savings by completely replacing the current Federal Family Loan Program with a Federal Direct Student Loan Program by 1997-98. After long negotiations and with the assistance of my colleagues Senators PELL, KASSEBAUM, DODD, MIKULSKI, and Chairman KENNEDY the committee has crafted a compromise to the President's initial bill.

The committee compromise now include the replacement of only half of the current guaranteed lending program with direct lending in the next 5 years. It also establishes a Commission to study the advisability of moving fully into direct lending before the end of the fifth year.

For those of us who support a more cautious approach to direct lending this compromise represents a step in the right direction. The committee's compromise allows the concept of direct lending to be tested before moving full speed ahead into uncharted waters. I believe that direct lending may be the best way to deliver loans to students. However, I believe just as firmly that we need to test that assumption and move slowly so that the beneficiaries of this program—the students—are not left without access to needed loan money. The committee's compromise does just that.

However, the committee compromise does more than just move cautiously to a new delivery system for student financial aid. It also saves $4.6 billion. It does that by a combination of moving 50 percent of new loan volume to direct lending, decreasing subsidies paid to lenders and guaranty agencies, and by assessing fees on lenders and Sallie Mae.

While I am pleased that the committee was able to meet the budget instructions and reduce many of the excessive costs paid to participants in the current program, I am very concerned that this money is not being funneled back into education programs but is instead going to pay off our debts.

For years we have been told that the threat from foreign enemies demanded massive defense buildup. Without question, this country threw itself behind that call and spent hundreds of billions of dollars on warplanes, submarines, and battleships. But now that threat has receded and has been replaced by a new threat—just as serious and just as frightening.

The new threat is not somewhere across the Atlantic—it is here, in our own country. It is the threat that our children are not getting a fair shot at what they deserve. Just today, the National Research Council released its 3-year study suggesting that the serious problems of the Nation's adolescents—drug use, school failure, delinquency, and violence—have grown to tragic proportions. The reasons are clear—the programs designed to assist children have come under siege over the past two decades. But teenagers are not the only losers in our country—young children and babies are also being ignored. When 1 in 5 children—14.3 million—lived in poverty in 1991 there is little wonder why children fail in school and become disillusioned with the future.

We have a clear and present danger in this country—just as we did decades ago with our foreign enemies—but we have yet to take that threat seriously. We have not—as we did with our defense buildup—understood that now is the time to build up education, health, and social services programs in the same way that we committed ourselves to the cold war buildup.

The problems of this country have moved from being a distant threat to a frightening reality. We must begin to reevaluate our priorities and devote our funding to solving the crisis at home.

AMT REFORM

Mr. LIEBERMAN. Mr. President, yesterday, I filed an amendment to this bill which would restore one of the President's investment proposals to his economic package—the President' alternative minimum tax reform provision. I did so because I believed—and I continue to believe—that the Congress must deliver three things to the American people—deficit reduction, spending cuts, and job creating investment incentives.

We are two-thirds of the way there. The bill sent to this floor by the Senate Finance Committee cuts spending and reduces the deficit by a significant amount over the next 5 years.

But the bill falls short on the investment side. While I am delighted we have worked to increase the small business expensing provision, I am sorely disappointed that a capital gains cut is not included in this bill. I very much hope that at some point in this long and fluid process of making law, we work to include a capital gains provision and work to improve the Senate Finance Committee's proposal on the AMT.

Specifically, the President has stated that capital intensive companies making investments should not be penalized for doing the right thing. We need more investment in this country—not less and the current law alternative minimum tax law is part of the reason more investment cannot be made. This was never the intention when Congress enacted the AMT in 1986.

The AMT was meant to operate as a backstop—to prevent profitable companies from escaping taxation and to ensure that everyone paid their fair share. Of course we all support that objective. What no one intended was for companies that are losing money to be forced to borrow more money to pay their AMT liability just because they made a new investment which would make them more productive and more competitive. That is the effect of the current law. We are taking capital away from productive investment in plant and equipment which will put more people to work and simultaneously create new economic growth for this Nation.

The President proposed a fair system which would bring the balance we originally sought into the alternative minimum tax. He did so by providing relief to those assets which are hit hardest by the AMT. Specifically, the

President sought to encourage investment in assets which will modernize and improve the productivity of our Nations manufacturers.

The Finance Committee bill spends about half as much revenue as the President proposed, but it provides only about one quarter of the benefit that the President would to encourage investment in these assets that are necessary for increased productivity and modernization of our Nation's factories. Consequently, I am extremely concerned that this proposal has lost much of its value in encouraging new job creating investments.

In short, I want to restore the President's AMT reform proposal. That proposal ensures that companies who are making a profit pay their fair share. But, unlike the Finance Committee version, I join the President in seeking to target relief to those investments which will prove most productive and will produce good jobs.

AMT REFORM

Mr. HEFLIN. Mr. President, the tax bill presented to us by the Finance Committee does some good things, namely reduce the deficit. I am quite concerned, however, that many of the job-creating provisions which were in the President's original request have been seriously cut back.

There is one provision that would have allowed capital intensive companies to make new investments in Alabama, namely the reform of the alternative minimum tax. I am concerned that it has been cut back so much that it will have little impact on creating new jobs in important industries in Alabama, particularly the paper industry and the steel industry.

In the President's State of the Union Address, he asked us to change the law so that companies making job-creating investments would not be penalized for doing the right thing—making new investments. It has been shown time and again that new investment creates new jobs and makes workers more productive. This was the President's objective, yet the proposal before us largely fails to meet that objective.

While the Finance Committee proposal provides some very limited relief, it clearly does not fix the problem. In fact, for investments in most manufacturing equipment, the Finance Committee only provides about 20 percent of the benefit of the President's proposal.

As I understand it, the President targeted his proposed relief to those assets that are most penalized by current law—long lived basic manufacturing assets. The current law tax penalty imposed on these assets is as high as a 25-percent increase in the cost of capital for these investments as compared to about 10 percent for some shorter lived assets. Unfortunately, the Finance Committee proposal does not target the same assets for relief as the President's proposal.

Unless we create new jobs, our long-term deficit picture will not get better—it will get worse. That is why I would hope that before this process is complete, this body would consider reinstating the President's original AMT proposal. I would certainly support that effort and hope my colleagues would join me.

RECONCILIATION INSTRUCTIONS

Mr. McCAIN. Mr. President, as the Senate considers the budget reconciliation bill, we can look upon the actions of the Senate Finance Committee last week in meeting their reconciliation instructions, and allowing this bill to be brought to the floor, as a classic good news, bad news situation.

The good news is that the 11 Democrats on the committee substantially revised President Clinton's plan. The good news is that the plan is an improvement over the House-passed $6.35 in taxes to $1 in spending cuts ratio. The good news is that Btu tax was given a proper burial.

The bad news is that their alternative budget plan still raises over $3 in taxes for every $1 in spending cuts. The bad news is that the supposed spending cuts are questionable and back-ended. The bad news is that small businesses, the principal job creators in this country, take it on the chin. The bad news is that the Nation's seniors get socked in the pocketbook. The bad news is that the proposed transportation fuels tax hits especially hard at the already overburdened airline industry.

The bottom line, Mr. President, is that the budget reconciliation bill is bad news for America. It raises taxes and user fees by $263 billion, it will increase the level of the national debt, and it discourages savings and investment by increasing income tax rates and imposing a capital gains tax surcharge. And, most importantly, the budget reconciliation bill will chill job creation, particularly in defense related industries and small businesses.

As former CEA chairman Michael Boskin noted in the Wall Street Journal this week, "Contrary to the President's claims that his program will spur growth and create jobs, there is nothing to help the economy grow—no real attempts to remove the tax barriers to saving, investment, and entrepreneurship, nothing to improve the incentive to start or expand a business and create jobs."

A closer look behind the numbers in the budget reconciliation bill dispels the administration created myths and uncovers the hard truth; that this measure represents nothing more than a return to the tax and spend policies of the late 1970's. It is a commitment to bigger government and additional Federal involvement in the lives of ordinary Americans.

A CLOSER LOOK AT THE NUMBERS

In view of the statements emanating from the administration this week, the public might be understandably confused about the mix of taxes and spending cuts contained in the bill the Senate will now be considering. After finally understanding that the plan introduced by President Clinton in February contained nearly $4 in tax increases for every dollar in spending cuts, and seeing that the House-passed bill contained over $6 in tax increases for every dollar in spending cuts, they are now told by the White House that the Senate bill will reduce the deficit by $500 billion, evenly divided between tax increases and spending cuts.

If the American people are confused, their confusion pales next to that of the administration. Remember, President Clinton also claimed, when first unveiling his economic plan, that there was $1 of spending cuts for every $1 of tax increase. He was wrong then—as determined by the Congressional Budget Office—and he is wrong now.

The first thing we should get straight is this idea that the Senate bill will reduce the deficit by $500 billion over 5 years. It's a fiction. Both the CBO and Joint Tax Committee estimate that the measure will reduce Government borrowing over the next 5 years by a little less than $350 billion—30 percent less than suggested by the President—and this is assuming that the proposed spending "cuts" actually materialize.

What about those spending cuts. Do they represent a real reduction in the size of government? Hardly. Fifty-five billion dollars in savings is lower interest payments on the national debt, not a cut in Federal programs. Moreover, the reconciliation bill includes as part of the spending cuts $44 billion in discretionary spending cuts that are already required by the 1990 budget agreement.

Furthermore, most of the proposed programmatic cuts, some 77 billion dollar's worth, are not scheduled to occur until 1997–98, well after the tax increases have kicked in. As we know all too well from past experience, spending cuts promised in future years rarely, if ever, materialize. During each of the most recent budget summits, substantial spending cuts and deficit reduction was promised, but never occurred. Not surprisingly, there are no enforcement mechanisms to ensure that these cuts will ever occur. That is exactly the kind of budget legerdemain that President Clinton assured the American people would never be permitted.

The most important number to remember, however, is not the deficit, but the national debt. Under this bill, the level of the national debt will increase by nearly $11 trillion by 1998—the largest such 4-year increase in history. And if this bill is enacted, then the budget deficit, and thus the debt, will be shooting upwards again after 1998. Even viewed in the best light, this is not a plan for the future.

Mr. President, while a discussion of budgetary numbers is necessary and

enlightening, I fear that we often focus too much of the numbers and forget that this budget reconciliation bill has a human dimension—it will have a direct and dramatic affect on the every day lives of people and American businesses. I would like to briefly discuss this measure's impact on small businesses, our country's senior citizens, and one particular business sector, the airline industry.

THIS BILL IS BAD FOR SMALL BUSINESS

President Clinton has often said that his No. 1 priority is creating jobs. It is beyond comprehension then that he would propose policies which will almost certainly lead to a significant reduction in job growth. But that is exactly what this bill would do—by dramatically increasing the tax burden on small businesses, this country's primary job creators. This is surprising, because in putting people first, his campaign manifesto, President Clinton said he would not raise taxes on small businesses.

Notwithstanding his earlier commitment, President Clinton has proposed, and this bill adopts, an increase in the marginal income tax rate from 31 percent to well over 40 percent—an increase of over 40 percent. This includes a top marginal rate of 36 percent on individuals, a 2.9-percent Medicare tax on salaries and self-employment income, and a surtax on people with incomes of over $250,000. At first blush, it might seem like this is a progressive plan that only socks it to the rich.

The facts are otherwise. In America, 80 percent of the all the businesses file on individual income tax returns, as proprietorships, partnerships, and subchapter S corporations, and will be directly affected by a crushing new tax burden. Annual cash flow of small businesses is often the primary source of working capital and new investment financing for business growth and job creation.

Some might argue that small businesses that make over $115,000 or over $250,000 should pay their fair share. Fine, but we can't then turn to them and complain that they aren't doing enough new hiring. Simple math and logic will tell you that if a business, any business, has less money to invest, it won't hire more employees; it might even reduce employment levels. Does anyone honestly believe that raising taxes on some small businesses by as much as 40 percent will encourage them to hire more workers?

This is crucial, because as I noted above, small business is the principal source of all new job creation in the United States—not the Fortune 500. In fact, small businesses created over 4 million net new jobs from 1988 to 1990, while businesses with more than 500 employees had a net loss of 500,000 employees during this same period.

Our country's 20 million small businesses employ 56 percent of the private work force, contribute 44 percent of all sales, and are responsible for 47 percent of GNP. By some estimates, small businesses are expected to be responsible for three-quarters of all the jobs that will be created during the next quarter century.

Mr. President, we should be adopting policies which encourage small businesses to invest in their enterprises and fuel the engine of economic growth—not chill it as the budget reconciliation bill will do.

DEVASTATING EFFECT ON SENIORS

Mr. President, as part of his economic plan, President Clinton initially proposed an increase in the tax on Social Security benefits for those with incomes over $25,000—or $32,000 for couples. The House adopted this proposal while the bill before us increases the threshold to $32,000—$40,000 for couples.

This plan, which the administration claims was designed to promote fairness and economic growth—hits a group that is hardly rich with a triple-whammy of new taxes and undermines the purpose and, perhaps future, of Social Security. What's more, it is a disincentive to those seniors who could further contribute to our economic growth by continuing to work.

While the President has called for sacrifice—which is really code for more taxes—on the part of all Americans, he is, in fact, proposing that certain segments of our society make a disproportionately larger sacrifice.

During his campaign, President Clinton assured the American people that he would only tax those who made more than $200,000 per year. At another stop on the campaign trail, the President stated that families making less than $80,000 would be immunized from any tax increases. When President Bush pointed out that his proposals could raise the tax burden on families making as little as $36,000 per year, candidate Clinton called President Bush shameless.

Thus, many senior citizens were understandably astounded to wake up the morning after the President announced his plan to find out that those elderly in our society that make as little as $25,000 and elderly couples making as little as $32,000 are now classified as rich and will have their taxes increased.

Mr. President, when I was first elected to Congress, in 1983, the Social Security trust funds were in terrible shape—losing over $1 million an hour. That year we adopted the recommendations of the bipartisan National Commission on Social Security Reform.

We made a deal with our Nation's seniors in enacting the recommendations of the Commission, and we did it for the purpose of saving the Social Security system from financial disaster. We increased their taxes, in return for which the senior citizens of this country were assured that they would receive the benefits from the Social Security system; a social contract that they entered into with the Federal Government. This administration is proposing that we break that deal. If we accept President Clinton's proposal we are going to tax our Nations seniors more and the taxes are not going to go into the Social Security trust funds. No, they are going to go into general revenues so that Congress and the administration can find another way to spend them.

I find this plan to tax 85 percent of Social Security benefits as a way to collect $32 billion in new taxes to help fund the new spending programs President Clinton would like to bring on line troubling for a number of reasons.

First, plans to balance the budget on the backs of our Nation's seniors assume that Social Security is mortgaging our children's future. But Social Security is not the problem. The problem is Congress' insatiable appetite for new spending. Were it not for the spending increases contained in the so-called investment and stimulus package, these revenues would not be needed in the first place.

Second, Social Security is being used to obscure the true size of the deficit. The Federal Government's accounting procedure, which includes all revenues and expenses in calculating the size of the deficit, uses the Social Security trust fund reserves to make the deficit appear smaller than it really is. My hope had been that the President would have joined those of us who have tried to eliminate this practice, rather than perpetuate the charade.

Third, the administration has found a way to raid the trust funds to finance new Federal spending, without technically touching the funds. They will just confiscate benefits.

Fourth, the administration's proposal will, in effect, turn Social Security into a means-tested program—a severe breach of faith with the American people.

What most don't realize is that not only Social Security, but interest, pension, dividend, tax-exempt bond, and wage income as well, are included in the calculation of this tax. Thus, many seniors with incomes over $25,000—a figure that will have fallen to $15,000 in today's dollars by 2010, when baby boomers begin to retire—will find that they effectively get no Social Security benefits at all. In short, Government will penalize instead of reward those who have sacrificed during their working years to save money for their retirement.

The most disturbing consequence of the President's proposal is that it continues to punish those seniors who still need to work in order to make ends meet. They would be hit with both the tax on their benefits and the Social Security earnings test penalty, which forces them to forfeit $1 in benefits for

every $3 in income they earn over $10,560—a combined marginal tax rate that approaches 100 percent for some. During the campaign, he indicated he intended to address this confiscatory policy. I am sure few thought what he really intended to do was increase the taxes on elderly workers, as this proposal would do.

It is certainly true that our Nation's seniors—as a group—are better off today than they were when Social Security was created in 1935. It is also true that many other groups in our society are suffering from declining standards of living. Deficit reduction and economic growth are proper imperatives for the new administration. But, despite their sales job to the contrary, the administration's proposal to increase the taxation of Social Security benefits is neither an appropriate nor effective way to achieve them.

THE TRANSPORTATION FUEL TAX AND THE AVIATION INDUSTRY

As anyone who has flown regularly knows, the past few years have not been particularly good ones for the airline industry. Well-known nameplates such as Midway, Pan Am, Eastern, Peoples Express, Frontier, Braniff, Republic, Air Florida, and National, are no longer flying, having merged into larger carriers or gone out of business completely. With the passing of each of these carriers, this Nation's airline industry has lost tens of thousands of jobs.

More recently, USAir announced that it expected to show another substantial loss in 1993, and Northwest Airlines states that it will be forced to file for bankruptcy protection within the next few weeks. And testimony before the recently constituted National Commission to Ensure a Strong and Competitive Airline Industry indicated that the industry has lost $10 billion since 1990.

While structural problems, foreign competition, and extremely high wage rates account for part of the airlines' difficulties, the biggest problem has been dealing with the enormous tax burden placed upon the industry. I'm not referring to just the 34 percent—soon to be 34 or 36 percent—corporate tax rate, or property taxes and user fees, paid by all businesses.

As a matter of fact, last year, the airline industry and airline passengers paid a total of $29 billion in Federal passenger-related taxes. A list of some of those taxes includes a 10-percent domestic ticket tax of $4.5 billion, an airport passenger facility charge of $11.3 billion, payroll taxes of $1.5 billion, a $6 international departure tax, and the list goes on and on.

It is small wonder, then, that the airline industry has been suffering. What is surprising, and deeply disturbing, is that the budget reconciliation bill will greatly exacerbate the airlines' problems by imposing a new 4.3 cents per gallon tax on transportation fuels to replace President Clinton's broad-based energy tax.

This would add more than $500 million annually to the operating costs of an already financially decimated industry. To make matters worse, the House-passed tax bill would add another $850 million to the airlines' annual operating deficit.

This is irrational and irresponsible public policy and will undoubtedly result in additional airline failures, less competition, higher fares, and, most importantly, additional job losses. One industry estimate projects that the airlines will lose 4.7 million passengers per year, slow the industry's fiscal recovery, and cost 26,500 jobs.

What is particularly tragic is that this additional burden is being imposed on the airline industry to support substantial new Government spending. Proponents of the industry have said they want to do all they can to help the airlines, but with friends like this, the industry certainly doesn't need to worry about its enemies.

I had the pleasure of serving as the ranking Republican on the Aviation Subcommittee in the Senate for 4 years, and had the opportunity to study, discuss, and hear testimony from many well-qualified experts and representatives in the airline industry. More recently, I testified before the National Airline Commission on some of the problems confronting the aviation industry. I also was able to hear and read the testimony of other witnesses before the Commission. Every domestic airline executive who spoke to the Commission said the industry is overburdened by taxes and fees that are difficult to pass on to consumers.

The answer for the airline industry is fewer taxes, not more. A new tax on transportation fuels is misguided. Only by helping our Nation's air carriers improve their fiscal health can we hope to maintain a competitive airline industry and create new American jobs. Unless we think we can do without domestic airlines, we should do without a transportation fuel tax.

Mr. PRESIDENT. President Clinton said he wanted to "put people first." Unfortunately, this bill puts a lot of people last, especially those in our society who, as the distinguished Senator from Texas says, pull the wagon. It hurts most those who most help this country grow, who create the jobs, and who have already given much to this country.

The Clinton economic plan and the budget reconciliation bill is bad for America. It will, at best, only marginally reduce the budget deficit in the short term, will do nothing to lower the national debt, it does not significantly cut Government spending, it institutionalizes bigger Government, and it will result in fewer jobs being created and weaker economic growth.

RURAL PROGRAM IN THE COMPETITIVE BIDDING PROVISIONS

Mr. INOUYE. Mr. President, I rise to offer certain explanatory comments concerning the rural program included in the competitive bidding provisions of the reconciliation bill. The rural program ensures that rural telephone companies will be able to obtain communications licenses in those cases where the FCC uses auctions, as long as the rural telephone companies pay for the licenses. The amount that the rural telephone companies will pay will be equal to the average of the amounts paid by auction winners for similar licenses. The Congressional Budget Office [CBO] has indicated that inclusion of the rural program in this legislation does not prevent the committee from reaching its target of $7.2 billion.

The purpose of the rural program is to ensure that consumers in rural areas are able to obtain access to new technologies when competitive bidding is employed. These provisions ensure that, when the FCC uses competitive bidding to award two or more licenses for services that compete with the telephone exchange service provided by a qualified common carrier, the FCC shall reserve one license in each rural market for the telephone company serving that market. Although these provisions are almost identical to the provisions included in the substitute to S. 335 as ordered reported by the committee on May 25, 1993, a few clarifications have been made to the language concerning the valuation of rural licenses to ensure that the rural program does not result in any loss of revenue to the Federal Government.

To illustrate the operation of the rural program, consider a hypothetical example where the FCC decides to award three personal communications services [PCS] licenses per market using competitive bidding. Assume further, again for illustration only, that the FCC elects to award all three licenses for statewide geographic service areas. For each State market, the FCC would designate three blocks of frequencies, which in this example are designated block A, block B, and block C. Since PCS will compete with terrestrial local exchange service, the FCC would designate one block, for example block C, as subject to the rural program.

The FCC would first auction statewide licenses for the block A and block B frequencies in each State. The FCC next would identify areas within the statewide market that meet the legislation's definition of rural—that is, nonurbanized areas containing no incorporated place with more than 10,000 inhabitants or areas served by small—10,000 or fewer access lines—or municipal carriers. Any otherwise eligible carrier that had already been awarded a PCS license in the block A and block B bidding would not be qualified for the

rural program. The FCC then would use competitive bidding to award the license for the block C nonrural program frequencies in each State, excluding areas that remained eligible for rural program licenses.

A qualified carrier then could rely on the value set by the FCC for the rural program license for its rural service area in deciding to file an application under the rural program. There is no intention to force any rural carrier to commit itself to paying an unknown fee for its license as the price of proceeding under the rural program. However, the program is not intended to reduce the revenues obtained through the spectrum licensing authorized by this legislation.

Therefore, should any qualified common carriers fail to apply or be ineligible to apply for their rural program licenses, the FCC would award licenses for those areas by competitive bidding pursuant to section 309(j)(3)(D). The intent is to recover the same amount from the block C licenses (including rural program licenses, the nonrural licenses, and the licenses issued pursuant to subsection (j)(3)(D)) as the average of the amounts received for the block A license and the block B license.

The previous example hypothetically assumed State markets. The identical process would apply using whatever local, regional or national service area the FCC chooses.

As an additional example, if the FCC has issued three licenses per market, and the rural program license(s) are cut out of the C license, the result might be as follows. License A, which covers the entire market, is awarded via competitive bidding for $98. License B, which also covers the entire market, is awarded via competitive bidding for $102. The average license value for the licenses not subject to the rural program would be $100. License C, which does not include that geographic area served by any qualified common carrier, is awarded via competitive bidding for $80. The total value of the remaining rural program license or licenses is therefore $20. If the market contains two rural areas served by qualified common carriers, and the nonrural C license is awarded via competitive bidding for $80, the total value of both rural program licenses would be $20. The two licenses would not necessarily be valued equally at $10 each. The FCC is given the discretion to value each license individually.

Thus, the prices of each rural license may vary so long as the aggregate value of all the rural program licenses in a given market is equal to the aggregate value set through the procedure described in subsection (c)(i).

Since otherwise qualified common carriers may become ineligible for the rural program by winning a license to provide service within their local exchange area through competitive bidding, or for some reason may choose not to apply for the rural license, there is a slight possibility that there would be no qualified common carrier eligible to apply for a rural program license even if the area were to qualify as a rural area. In this instance, the FCC shall award the license for that area under section 309(j)(3)(D). I anticipate that any revenue shortfall that would otherwise be created because of the ineligibility of a common carrier serving a rural area shall be recovered through this procedure. Prices initially set for rural licenses by the FCC shall not be altered to make up for these licenses.

Finally, the provisions on competitive bidding clarify that potential revenues from competitive bidding are not to affect the FCC's decisions to allocate spectrum. The provisions further clarify that persons awarded a license through competitive bidding do not gain rights any different from the rights obtained by persons who gain licenses through methods other than through competitive bidding. The FCC has been undertaking efforts to encourage the provision of new technologies and services by entrepreneurs and innovators. Consistent with the FCC's statutory obligation and its prior efforts in that regard, the Committee included language in this subsection which states that nothing prevents the FCC from awarding licenses to companies or individuals who make significant contributions to the development of a new telecommunications service or technology. The legislation makes clear that communications licenses shall not be treated as the property of the licensee for property tax purposes or other similar tax purposes by any State or local government entity.

One additional point needs to be made clear. The legislation states that a telephone company that receives a license pursuant to the rural program shall not be eligible to receive any other license to provide the same service in such area. The intention of this provision is to bar telephone companies from holding more than one PCS license, for instance. Nothing in this provision prohibits a telephone company that holds a cellular license from participating in the rural program for the purpose of obtaining a PCS license.

REGULATORY PARITY

Section 409 is intended to ensure that providers of commercial mobile services are regulated in a similar, if not identical, fashion. These provisions are almost identical to the provisions contained in the substitute amendment to S. 335, order reported by the committee on May 25, 1993. Under the legislation, all commercial mobile services would be treated as common carriers. The term "commercial mobile services" is not intended to include all providers of land mobile services. For instance, providers of specialized mobile radio service that do not compete with cellular service are not intended to be covered under the definition of commercial mobile services. The FCC is given the authority to determine who will be included in the definition of a commercial mobile service provider. In general, the legislation would forbid States from regulating the entry of or the rates charged by these commercial mobile services providers.

At the executive session at which this committee ordered this budget reconciliation legislation to be reported, the committee agreed to an amendment offered by Senator BRYAN to give added consideration to States that currently regulate cellular service. This amendment is not contained in the substitute amendment to S. 335, ordered reported by the committee on May 25, 1993.

Under subparagraph (C), as added by the amendment, a State that has in effect, on June 1, 1993, regulation concerning the rates for any commercial mobile service may petition the FCC to continue exercising authority over such rates within 1 year after the date of enactment of this legislation. The FCC is directed to grant or deny any petition within 270 days of its submission. The FCC's review of any such petition must be fully consistent with the overall intent of section 409. It is intended that in making a determination under subparagraph (C), the FCC will examine whether a State demonstrates that, in the absence of rate or entry regulation, market conditions (including levels of competition) fail to protect subscribers from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. Under subparagraph (D), if the FCC grants a State's petition to continue regulating the rates for commercial mobile services, any interested party may, after a reasonable amount of time following the FCC decision, petition the FCC for a determination that the exercise of the State authority is no longer necessary to ensure that rates are just and reasonable and not unjustly or unreasonably discriminatory. The FCC, after opportunity for public comment, shall issue an order that grants or denies such petition within 9 months of the filing of the petition.

Finally, I understand that there is some concern that the competitive bidding provisions of this legislation could cause harm to the people who have already submitted lottery applications for communications licenses. As required by the reconciliation instructions issued to the Commerce Committee by the Budget Committee, the legislation requires the FCC to use competitive bidding—except in certain circumstances—for all communications licenses issued after October 1, 1993. The FCC is currently in the process of conducting lotteries for several new communications services, and several

thousand applications have already been submitted to the FCC for these lotteries. I understand that the applicants for these services, who have already spent money to file these applications, would be disappointed if the FCC were no longer able to conduct lotteries after October 1, 1993. I am exploring the possibilities of helping these current applicants as long as there is no budgetary impact. I will continue to examine this question once the conference convenes on this legislation.

Mr. President, I appreciate the opportunity to present these clarifying views on some of the provisions of this legislation.

COMPETITIVE BIDDING PROVISIONS

Mr. GORTON. Mr. President, I rise today concerning the competitive bidding provisions in the Budget Reconciliation Act. I am a strong supporter of competitive bidding but wanted to bring attention to one concern that I have about the Senate provision which I hope will be addressed in conference.

The Senate provision provides that competitive bidding will be held after October 1, 1993 for the assignment of new spectrum. It is vitally important that the Federal Communications Commission has sufficient flexibility to determine how to implement this new licensing scheme, especially with respect to spectrum that has already been allocated to specific telecommunications services and for which the Commission has already commenced licensing processes. As Federal Communications Chairman James Quello said in a letter to me dated June 23, 1993:

In some services in which licenses are currently awarded by lottery, the Commission has tentatively selected winning applicants, but will not be in a position to grant licenses until later this year. To change our position to grant licenses midstream for these services would greatly complicate our licensing procedures and likely give rise to legal challenge.

It is my understanding that this is the case with the 220-222 MHz tentative selectees who have yet to be issued a license by the FCC. There are also a number of other proceedings currently underway at the FCC that are in various stages. In some cases, applications have been filed but the FCC has not acted upon them such as is the case with some cellular licenses. These issues will need to be addressed in conference.

Furthermore, the bill makes certain exemptions from comparative hearings. The conferees should also be aware that there are other services that also serve the public interest which need to be examined for possible exemption. These include multipoint distribution service applications which I understand there are over 2,000 applications pending. Instructional television fixed service such as that operated by the Washington State University in Spokane and by KCTS, a public television station in Seattle. Additionally, the conferees should consider private operational fixed microwave service which are used for example by the Washington Higher Education Telecommunications System to serve classrooms in Pullman, Richland, Seattle, Spokane, Vancouver, and soon, Wenatchee and Yakima.

I ask unanimous consent that the attached letter from Chairman Quello be included after my statement.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, DC, June 23, 1993.

Hon. SLADE GORTON,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR GORTON: I write to offer some thoughts concerning pending legislation authorizing the Federal Communications Commission to use a system of competitive bidding for spectrum allocations. First and foremost, let me emphasize that I recognize the importance and great benefits that can be derived from competitive bidding, and I fully support its use as a means of raising significant revenue for the U.S. Treasury. I regard competitive bidding as an efficient tool for management of this valuable national resource, and look forward to implementing the law as ultimately adopted by the Congress.

There are, however, two potential problem areas to which I wish to draw your attention. First, it is vitally important that any competitive bidding legislation provide the Commission with sufficient flexibility in determining how to implement this new licensing scheme, especially with respect to spectrum that has already been allocated to specific telecommunications services and for which the Commission has already commenced licensing processes. Please be assured that the Commission will work to utilize competitive bidding wherever practicable. However, a sudden mandatory change to competitive bidding from existing licensing procedures could impede the development and, ultimately, the viability of these services. In some services in which licenses are currently awarded by lottery, the Commission has tentatively selected winning applicants, but will not be in a position to grant licenses until later this year. To change our licensing rules midstream for these services would greatly complicate our licensing procedures and likely give rise to legal challenges.

Indeed, requiring the Commission to use competitive bidding across the board could have unintended consequences. For example, the wireless cable industry, which may provide effective competition to cable television, has developed using a complex process of acquiring multiple licenses and leasing capacity from other licensees. A change in the licensing procedure in this service could render wireless cable prohibitively expensive, thereby reducing its potential as a competitor to cable. For these and other reasons, it is crucial that the Commission be allowed the flexibility to determine the best means of awarding licenses so as to ensure efficient use of the spectrum and encourage the development of competitive and innovative communications systems.

In addition, in your consideration of competitive bidding legislation, I would also urge you to be mindful of the potential ramifications on international telecommunications service providers who utilize spectrum in other countries as well as in the United States. For example, requiring use of competitive bidding for low earth orbiting satellite system licenses in this country might subject those licensees to exorbitant payment requirements for access to spectrum in other countries. I am particularly concerned that some foreign governments opposed to the use of our international telecommunications accounting and auditing standards could use our competitive bidding requirement as a justification for retaliatory measures.

I greatly appreciate your attention to these concerns, and I welcome the opportunity to provide any assistance you may need in considering this important legislation.

Sincerely,

JAMES H. QUELLO, *Chairman.*

AMENDMENT TO RESTRAIN ENTITLEMENT GROWTH

Mr. ROCKEFELLER. Mr. President, I rise to address the amendment offered by the Senator from Tennessee concerning restraining the growth of entitlement spending. This amendment is a well-intentioned, thoughtful response to a building consensus in the Congress and in the country that we must try to slow the growth of entitlement spending. And what is probably most important is what this amendment, as opposed to many of the prior proposals that arbitrarily cap entitlement spending, does not do.

This amendment does not put an artificial cap on entitlement spending that would force automatic, harmful cuts in programs that serve the Nation's elderly, the sick, the poor, and the disabled. It tries to retain some flexibility in how we achieve cuts if Congress and the President determine they are needed. The Senator's amendment recognizes that we already have a cap on spending because of the pay-as-you-go requirements in the Budget Enforcement Act, and the amendment extends the requirements of that act. The amendment also clearly recognizes the fact that this Budget Reconciliation bill does more to restrain entitlement spending than any bill in history—to the tune of about $100 billion. We cut $65 billion in health spending alone. It wasn't easy. I wish it hadn't been necessary, but the chairman of the Finance Committee worked doggedly to make sure that we met the challenge. And we tried to do so as fairly and responsibly as possible.

Importantly, this amendment does not totally abdicate our duty as elected representatives to act responsibly to help control our health care spending while protecting the interests of the beneficiaries of these Federal programs. It says that if cuts are needed, we will have to take a serious look at the policy considerations before we cut. A flat entitlement cap arbitrarily

locks us into an automatic pilot procedure that runs the very real risk of undermining the protection that Medicare and Medicaid provide and aggravating the health cost spiral for all Americans.

This amendment does not set the caps at a level that will guarantee that deep cuts in current benefits will have to be made, regardless of our success in significantly curbing the growth of these programs. Importantly, it does not make Veterans, farmers and civil servants suffer because of the excesses in health programs.

I think we all should be honest about why we are debating this issue today. We know the real motivation behind the entitlement cap movement is to control the growth of the two fastest increasing entitlement programs—Medicare and Medicaid. And for the record, every Senator knows who these programs serve—our Nation's most vulnerable populations: the elderly, poor pregnant women and children, and the disabled. Consequently, very few Senators are willing to take them on directly. It would look too mean-spirited. Instead, a device, something seemingly innocuous called an entitlement cap, is used to achieve the same result: cuts in those programs, cuts in benefits.

I ask my colleagues not to believe the rhetoric that under any one of these garden variety entitlement cap proposals that we are just controlling growth, so any cuts would just reduce the increases in these programs. All those proposals that I have seen would result in cuts to beneficiaries—higher out of pocket costs for Medicare beneficiaries, less services for the Medicaid population. They would mean less access to health care. They would mean less care. We must not kid ourselves. That is why the chairman's proposal to constrain entitlement growth is a valuable alternative to what I consider to be callous, irresponsible approaches to this issue.

It is my judgment that the best attribute of this amendment is that it will allow us to finally get to the real solution to these underlying problems—health care reform. The entitlement cap movement is in essence a plea for what I have long been begging for—all-out health care reform with stringent cost containment. That is because across-the-board health cost controls are the only way to curb the excessive growth in health care costs.

In a recent report the Congressional Budget Office states, "* * * in the absence of other changes, further attempts to control public sector spending would probably produce additional cost-shifting to the private sector * * *" The reasons for the increase in health entitlement are simply these: First, health inflation; second, growth in the number of poor people; and third, growth in the number of disabled individuals. We can't repeal inflation. We can't control the number of disabled and poor people. The Federal Government's own health budget problems cannot be addressed in isolation—they can only be addressed as part of systemwide, comprehensive health care reform.

We can reform our health care system to address these underlying problems. We can do that this year, in this Congress. And we can give the American people something while we are doing it: a more efficient health care system that works for every American and that America can afford to sustain.

IMPACT ON CALIFORNIA

Mrs. FEINSTEIN. Mr. President I have thought long and hard about this legislation. Unquestionably, it is the most important bill we will consider this year. What we do today will have a great impact on the people of this country—people who need jobs and who desperately want to believe that this Congress and this administration can turn the economy around.

Nowhere in this country is the impact of the recession felt more strongly than in California. The unemployment rate in California stands at 8.7 percent—nearly two percentage points higher than the national unemployment rate. Today, 1.3 million Californians are out of work and throughout this country 8.8 million people today are unemployed.

Two separate economic reports released this week add to the gloomy economic conditions in California, according to a Los Angeles Times story from today that I would like to submit for the RECORD. Let me highlight just a few points:

A report by the Federal Reserve Board released Wednesday showed that California's economy continues to lag behind the rest of the country. Manufacturing is "in a serious slump," activity in the high-technology electronics industry is down, and sales remain flat.

The report says: "The majority of our respondents expect the economy to expand. Most contracts in California and Washington, however, expect their regions to under perform the national average."

A separate report, by UCLA's Business Forecasting Project, said that the three trends needed for California's rebound still have not occurred: higher housing starts, a healthier national economy, and stronger demand for California's goods and services. In fact, this report shows that 150,000 new housing units in California must be constructed just to meet demand. The current rate of construction will only bring 100,000 new units by next spring. I am pleased that low-income tax credit are extended permanently. This can provide the incentives necessary for builders and non-profits to build affordable units for families.

This Congress and this administration have a responsibility. And that responsibility is to turn this economy around.

Mr. President, I applaud Chairman SASSER, the distinguished floor manager, Chairman MOYNIHAN, and the majority leader for putting together this budget reconciliation bill. With our colleagues on the other side of the aisle content to simply play politics with the country's economy, this was no small achievement.

By decreasing taxes and cutting additional spending from the President's proposal, I believe that the Finance Committee has significantly improved the bill. The committee also achieved a better than 1 to 1 ratio of spending cuts to tax increases. This was crucial. We cannot nor should not ask the American people to sacrifice unless the Government is willing to sacrifice as well.

I am pleased the Btu tax has been eliminated—it was ill conceived, too cumbersome to implement and would have cost my State jobs we cannot afford to lose. Most importantly, by reducing the deficit by over $500 billion, this bill will help keep long-term interest rates low, an important factor in improving the economy.

I intend to vote for the bill now before us, but no one should misconstrue that vote as an indication that I will support the final bill that comes out of the conference committee unless there are significant changes in the legislation.

I am troubled by this bill because it would eliminate nearly all of the President's investment incentives.

Let me mention a few concerns I want to see addressed in the conference committee.

First, I am concerned about the Finance Committee's treatment of the research and experimentation tax credit. The President requested, and the House approved, a permanent extension of the credit. The Senate Finance Committee's bill, however, includes only a temporary 1-year extension and does not make the credit retroactive to the date of its expiration.

I was pleased to introduce a sense of the Senate today, co-sponsored by 23 Senators, that expressed the united view that R&D tax credits should be permanent.

Several chief executive officers from firms in California have written to me to express their deep concern about the Finance Committee's treatment of the credit. The normal R&D planning cycle for high technology companies spans at least 2 years. A temporary credit, particularly one that is not retroactive, will not induce new research and development nor will companies be able to hire new employees.

As you know, the goal of the R&E credit is to induce additional research and development to increase productivity and to create jobs. Substantial research shows that without proper incentives, U.S. companies, particularly

small companies, will not adequately invest in research and development. Hence the need for this credit.

I hope and expect that the Senate conferees will reexamine the treatment of the R&E credit during the conference committee on this legislation in light of my sense of the Senate. I strongly support an expansion of this credit. It is good policy, good business, and good common sense.

Second, I am concerned that this legislation does not include a targeted capital gains exclusion for small businesses. I voted to include it in this bill. I hope the bill that returns from conference will include this important provision. The development of patient capital to aid in the start-up and expansion of small and mid-size businesses is vital to job creation.

Third, I am also concerned about the formula used to calculate the tax on excess passive assets. By limiting the asset base to tangible goods and 3 years of R&D and royalty costs, I believe that this bill unfairly discriminates against high-technology companies whose value is underrepresented by this formula.

It would be a terrible mistake to handicap our Nation's most important and dynamic sector with this formula. I would suggest that, at a minimum, the asset base include 5 years of R&D and royalty costs, not just 3 years. This would better reflect the true value of the high-technology industry's assets.

It is my view that these changes would produce a better bill.

This budget really comes down to whether or not Congress will protect the American Dream. The dream of earning a living, buying a home, and enabling our children and grandchildren to have a better life than ours. Today, the American Dream is in jeopardy unless we invest in our economy.

Unless you have been unemployed, you cannot know how devasting it is.

A twelve-year-old girl from Quartz Hill, CA, wrote me one of the most touching letters I have ever received. Her letter expresses the fears and concerns of so many Californians and so many Americans.

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

MELISSA KALBACHER—COMMON CAUSE AND CONCERNS, INC.

My name is Melissa Kalbacher. I am twelve years old. I am a resident of Quartz Hill, California, where I attend Joe Walker Middle School.

Our organization, Common Cause and Concerns, Inc. came to Washington to help the unemployment and homeless of our community.

I know first hand about this problem. My father was an aerospace machinist at Lockheed, Burbank with seventeen years experience when he was laid off. It has been almost three years since he has had a steady, full-time job. He finally decided after all this time to go back to school and is retraining as an automobile technician full time, but that won't be finished until February 1994. My mother, who has been an accountant for twenty years has also been unable to find work. It is very hard for us to cope. There are too many bills, not enough money, and too many arguments.

I can't tell you how wonderful it is for a girl my age to visit her Senator to express my fears, feelings and anguish. We came here after selling raffle tickets to pay our way. We travelled by Greyhound Bus for three (lovely) days, because the other ways of travel were too expensive.

If it were not for my grandfather who has been paying our mortgage, my family and I would be on the street, homeless, like so many others in our city.

We came from so far away to ask for your help in finding jobs for the unemployed, homes for the homeless and food for those who are hungry. Common Cause and Concerns has some jobs programs and ideas that can help our area, but we need your help and direction to accomplish more.

My mom and I worked very hard on your campaign, in an area where we are a definite minority, and I am very glad you were elected. Your being in office gives me hope for my future and the future of all women in this country.

Coming to Washington, D.C. has been a once in a lifetime opportunity, and I thank you for seeing me and my friends, and look forward to any help and ideas or assistance you may suggest.

Mrs. FEINSTEIN. Melissa and her family are not alone. Like many Americans, there are few available jobs and little hope that things will get better soon. That is why I support additional investment incentives.

I have raised these concerns with the Democratic leadership, the Secretary of the Treasury, and the President. They know how I feel. And I must say, the President told me he would like to see many of these incentives in the final bill.

This bill is not perfect—but I will vote for it because it is essential that we move the process in the right direction. As I said earlier, I am deeply concerned by the lack of incentives for businesses. I expect that the final proposal that comes out of the conference committee will address these issues.

Today, it is time for progress. Yet the inadequacies of this bill must be addressed before it is finally adopted.

I praise my distinguished colleagues who have labored hard and successfully to put together this important legislation. Their task was Herculean, but they have managed well. I thank them for their work.

I ask that a column from the Los Angeles Times of June 24, 1993, be printed in the RECORD.

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

CALIFORNIA'S OUTLOOK STILL GLOOMY, TWO SURVEYS SHOW

(By Greg Miller)

WASHINGTON.—Economic activity in California continues to lag behind the rest of the country, while uncertainty about federal taxes and health care reform appears to be restraining the national recovery, the Federal Reserve Board reported Wednesday.

California's gloomy outlook was echoed in a separate forecast by UCLA's Business Forecasting Project, which reiterated its earlier prediction that the state's economy will not begin expanding again until next spring at the earliest.

In a survey of economic conditions around the nation, the Fed said it found that businesses are hiring fewer workers and delaying potential investments in response to predictions of higher taxes and health care changes.

In addition, it said the unsettled political outlook may be inhibiting consumer spending, while potential changes in U.S. trade policy are producing anxiety among importers.

The "beige book" report, based on anecdotal evidence compiled by the 12 regional Federal Reserve Banks, said the economy is growing at a "slow to moderate pace" in most areas of the country and should continue to do so.

California, however, continues to lag. Sales remain flat, manufacturing is "in a serious slump" and activity in high-tech electronics is down, the report says.

"The majority of our respondents expect the economy to expand," its says. "Most contacts in California and Washington, however, expect their regions to under-perform the national average."

The report by UCLA, sponsored by its Business School, said in its latest quarterly survey that the three trends needed for California's rebound still have not occurred: higher housing starts, a healthier national economy and stronger demand within the state for California's goods and services.

The housing industry, for instance, remains "flat on its back," the report says. "The window of opportunity for California to emerge from the recession this year has probably closed," said study director David G. Hensley.

In the meantime, UCLA again predicted major layoffs among state and local government workers later this year because of the state's fiscal problems. But its forecast of 21,000 layoffs was revised down from the 31,000 seen in its study from the previous quarter.

An economist at the Federal Reserve Bank in San Francisco attributed California's sluggishness to declining defense spending, an overbuilt commercial real estate market and the restructuring of financial institutions.

The Fed's observations were supported by private analysts.

"What we're seeing is that the Southern California economy is still declining but at a slower rate than it has been declining," said Michael Penzer, senior economist at Bank of America in San Francisco. "We don't know if it's hit bottom yet."

The report is the latest of several recent indications that the U.S. economy, though expanding moderately, is growing more slowly than previously expected.

The Commerce Department reported Wednesday that gross domestic product—the basic measure of the country's total output of goods and services—grew at a revised annual rate of just 0.7% from January through March, far slower than the 4.7% growth rate of the previous three months.

In a separate report, the Commerce Department said orders to U.S. factories for autos, appliances and other expensive durable goods fell 1.6% in May, the third consecutive monthly decline and an indication of

continuing problems in the manufacturing sector.

The Fed's "beige book" report is prepared eight times a year for the Federal Open Market Committee, which determines short-term interest rate policy. The Fed, which controls the interest rates at which banks may borrow money, usually lowers rates to spur investment and economic growth and raises them to stem inflation.

Despite the slow growth, recent signs of rising prices have created concern that the Fed might raise interest rates soon to keep inflationary pressures in check. Asked about that possibility Wednesday, President Clinton said he sees no need for a rate increase.

"There's no inflation in this economy," the President said. "I think long-term interest rates will stay down. That's the key to the economy."

The Fed report echoes the claims of some business groups that the Administration's deficit-reduction and health care initiatives have had a chilling effect on private-sector activity.

"The concerns about fiscal and health care policy are already damaging the economy and offsetting some of the positive impacts of lower interest rates," said Lynn Reaser, chief economist for First Interstate Bancorp in Los Angeles.

Reaser said the lack of confidence has had its greatest impact on employment practices. "We're seeing companies using record amounts of overtime and relying on temporary help," she said.

Others said the uncertainty surrounding federal policy has undermined the economic momentum established late last year following the presidential election.

"The 'Clinton effect' has waned and people are worried about tax increases," said Penzer, the Bank of America analyst. "Until the coast clears, there is a tendency to hold back."

Mr. GRASSLEY. Mr. President, one of the many provisions in the current tax bill before us that disturbs me is the provision that increases estate taxes. Estate taxes have an entirely different impact on the economy than income taxes. Family business owners, farmers, and ranchers will be most seriously affected by death taxes because the preponderance of such estates consist principally of a single non-liquid asset. In many cases, the asset is a business built over the years with a great deal of capital investment and a maximum of sweat equity.

Mr. President, estate taxes are not only being increased, but, to add insult to injury, they're being raised retroactively to January 1, 1993. It's unfortunate that the majority has not at least made the estate tax increase prospective from July 1, 1993, like the other rate increases in the bill. Since the 1916 enactment of the estate tax, no estate tax rate change has ever been made retroactively.

As a leading proponent of taxpayers' rights, I have opposed the retroactive application of IRS regulations, as well as the tax laws. Retroactivity undermines confidence in the system and the Government.

What we need to be doing is reducing the estate tax to provide relief for family-owned businesses and farms, not increasing rates retroactively. Families need to be able to hold onto their businesses and farms so the economy can grow and jobs can be created.

I just hope those who are proposing these tax increases will come to their senses before it's too late and understand the devastating effect these increases will have on the economy and our Nation.

PAPERWORK REDUCTION ACT

Mr. LIEBERMAN. Mr. President, there is one provision in this bill that I would like to discuss further with my good friend the Senator from New York. That is the third party coverage clearinghouse and the information collection it requires. I do not question the need for the information collected. In fact, my Subcommittee on Regulation and Government Information held a hearing on this issue, and GAO is following up with a more detailed study. It is important that the Health Care Finance Administration [HCFA] have accurate information of dual coverage when it processes Medicare and Medicaid claims. I do have questions about the way in which the information is collected.

It is my understanding that the reconciliation bill amends the tax code to require all employers to indicate whether or not the employee has access to health care coverage, whether they exercised that option, and whether any dependents are covered. All of this would be recorded on the W-2 form. This information would be collected for all persons who work during the year and kept in a data base for at least a year. Even though, according to the HCFA, this information is needed for only about 5 percent of the work force.

The Paperwork Reduction Act requires that before an agency begins or revises an information collection they must: Make sure that the information is not collected elsewhere in the Federal Government, and reduce to the extent practicable and appropriate the burden on persons who will provide information to the agency. It goes on to specify that the Director of the Office of Information and Regulatory Affairs at OMB can cancel information collections that do not follow these procedures.

I am concerned that this collection has not been subjected to these considerations. I have heard from several businesses that compiling this information for all employees would be expensive and burdensome. HCFA should look for a solution to their data needs that collects information for only those individuals who have double coverage. Further, by placing this information collection in statute, if the administration does find a less burdensome or more timely way of collecting the information, legislative change may be required to eliminate duplicate collection.

Mr. MOYNIHAN. There is no intent on the committee's part to bypass the requirements of the Paperwork Reduction Act. I share the Senator's concern about the burden of this requirement, and I urge the administration to continue its search for better ways to collect this information—one that collects information only for the individuals where it is necessary. I look forward to legislative proposals in the future that would move us toward a less burdensome collection of this information.

Mr. LIEBERMAN. Some have characterized this proposal as a way of ending the pay-and-chase system that now exists, a system where HCFA pays Medicare claims and then spends a great deal of time chasing after the insurer or employer who should have paid the claim. And it is often the case that the insurer or employer never knew about the claim in the first place. This W-2 collection does not eliminate the pay-and-chase process.

The information collected on the W-2 will be 18 to 24 months old by the time it gets to HCFA. It will be used to replace only one step of the eight-step data match. It will replace one questionnaire to employers who have been identified as having employees who are eligible for Medicare or Medicaid. That questionnaire asks only if the employer provides health care for the employees. This is one of the simpler steps in the process, and the remaining seven will still be required. In other words, we are setting up an elaborate and burdensome system to replace one step in another elaborate system. I wonder which is less burdensome—collecting health insurance coverage from all employers on all employees, or asking a subset of employers whether or not they provide health insurance?

Finally, I would urge that HCFA begin to develop a pilot program modeled after the New York Single Payer Demonstration project. Information is exchanged electronically between health care providers and insurance companies. Such a system could provide HCFA with coverage information at the time a claim is processed rather than 18 to 24 months later. This would completely eliminate the pay-and-chase process, obviate the need for the data match, and reduce the cost to both HCFA and the providers.

Mr. President, I would like to thank the Senator from New York for the opportunity to explore these issues and I yield the floor.

Mr. MOYNIHAN. Mr. President, I would like to thank my colleague from Connecticut for his thoughtful comments on the third-party coverage clearinghouse. I join him in urging HCFA to move quickly to develop a pilot project that builds on what we have learned in the New York project, and to eliminate as quickly as possible the need for the data match and the W-2 collection.

S. 1134

Mr. CRAIG. Mr. President, I rise to oppose S. 1134, the Omnibus Budget

Reconciliation Act of 1993, for fiscal year 1994.

I also want to express my strong support for the amendments offered by the Senator from Oklahoma [Mr. NICKLES], to strike the fuels tax; by the Senator from Mississippi [Mr. LOTT], to strike the provision to increase income taxation of Social Security benefits; and by the Senator from Hawaii [Mr. INOUYE], in opposition to reducing the deduction for legitimate business meals. I also commend the Republican leader, Mr. DOLE, and the ranking member of the Budget Committee, Mr. DOMENICI, for their efforts yesterday, which I supported, to substitute a tax-free deficit-reduction plan for the tax-and-spend bill before us.

Mr. President, I have been truly impressed by the intense opposition to this tax bill that the American people are demonstrating. In a recent visit to my home State of Idaho, the sentiment against a policy of "tax first, and spend some more," was intense. But my office has been receiving phone calls and faxes from all around the country in the last few days.

Their message is clear: "Cut spending first. Balance the budget. Tax-and-spend business as usual has to end."

One of my constituents, just earlier today, with great earnestness and frustration inquired, "Can't you explain to those other Senators how much this bill will hurt us?" We on our side have tried to do that, Mr. President. I rise now to try again.

Why is there such opposition to the budget and tax program offered by the President and the Democratic leadership? The constituent I just mentioned said that he would not have voted for President Clinton if he had known this bill would be the result.

Candidate Clinton promised to focus on the economy like a laser beam. A major part of that was understood to mean the new administration would focus on the Federal budget deficit like a laser beam.

But now, it's become more and more obvious the laser beam is focused on the pocketbooks of the middle class.

In other words, the dissatisfaction we are hearing over this bill is because of the difference between promise and performance, between expectation and delivery.

The American people are saying, loud and clear: "Cut spending first!"

Unfortunately, the President and Democratic leadership, first in the budget resolution, and now in this budget reconciliation and tax bill, are saying:

"We'll cut spending after the next Presidential election—maybe;"

"We'll tax first; we'll spend more first."

"We can't cut spending and reduce the deficit too fast; they 'stimulate the economy'."

If more spending and larger deficits really stimulated the economy, then the economy should be roaring along now.

Aren't $300 billion deficits, $4.1 trillion in debt, and $1.5 trillion per year in spending stimulation enough?

If total Federal spending just stayed constant, we could have a balanced budget in 5 years. That time frame and that method of getting there strikes most Idahoans as more than reasonable. I believe it strikes most Americans everywhere as reasonable.

Even if total spending grew at 2 percent a year, the budget would be balanced by 2001. Including the peace dividend, that 2 percent total growth would allow domestic programs to grow 3 percent a year or more.

On taxes and who pays them; candidate Clinton promised:

In January of 1992, a tax cut for the middle class;

In September, that the middle class would be able to elect between a children's tax credit or a significant reduction in their income tax rate; and

In his book, Putting People First, that he would oppose increasing the gasoline excise tax, and he criticized President Bush for agreeing to such an increase in 1990.

In contrast, the performance has featured:

The largest tax increase in history: This bill still contains $249 billion in net new taxes and fees over 5 years, and will go to conference with a House-passed, $291 billion tax bill;

A proposal to raise by 70% the income taxes on Social Security paid by single seniors with incomes above $32,000 and couples above $40,000; (in the House, $25,000 and $32,000, respectively);

A 4.3-cent transportation fuels tax, plus extending through 1999 the 2.5-cent gasoline tax set to expire in 1995;

Statements that families with incomes under $30,000 won't be hurt, but that's still based on an imputed "Family Economic Income," not on traditional, statutory definitions like Adjusted Gross Income or taxable income; in fact, the Treasury Department has not responded to requests from several of us on the Joint Economic Committee to produce tables showing the distributional impact of the new taxes based on AGI;

A hard tax hit on small business owners, who make up the majority of individual filers with more than $100,000 AGI;

A hard tax hit on every worker who, of necessity, has his or her meals provided by an employer.

On deficit reduction/balancing the budget; the promise was: A 5-year plan to balance the budget (in June 1992); and to cut the deficit in half in 4 years (again, in June 1992).

The performance? Deficits that dip slightly, based on higher taxes, but swell back up as future spending again overtakes future taxes, as this table shows, based on Budget Committee data:

Deficits ($ billions): Est. 1993—$302; 1998—$202; 2001—about $300; 2003—about $400.

Interest ($ billions): $295 in 1993 and $381 in 1998.

Gross debt ($ trillions): End of 1993—$4.4; 1994—$5.8; 1998—$6.2.

This administration's own budget documents and the Democratic leadership's own budget legislation promise the biggest increase in deficit spending and buildup of debt in history.

PAST PROMISES: TAXES TO REDUCE THE DEFICIT?

The President and his congressional leadership argue that massive tax increases are necessary to reduce the deficit. But will that deficit reduction happen?

Keeping in mind that those who ignore history are doomed to repeat it, let's look at what happened the last four times Congresses and Presidents tried that approach:

1982: Democrats in Congress promised President Reagan $3 in spending cuts for every $1 in new revenues (in TEFRA—the Tax Equity and Fiscal Responsibility Act);

Next year: Spending was up 8.4%, and the deficit went up 62.4%.

1985: Congress passed $50 billion in taxes for a "down payment" on the deficit;

Next year: Spending was up 4.6%, the deficit was up 4.2%, and taxes went up 10.1%

1987: After a stock market plummet, a budget summit agreed to raise taxes and cut spending $1-for-$1;

Next year: Spending was up 6.0%, the deficit up 3.6%, and taxes up 9.0%.

1990: The budget summit sought to raise $150 billion in new taxes, and was supposed to cut spending twice as much;

New year: Spending went up 9.4%, the deficit up 43.7%, and taxes up 4.1%.

Among other things, this experience shows why we need a balanced budget amendment to the Constitution.

Our system is fundamentally broken; virtually all the political rewards are for more spending, so Congresses and Presidents will tend to do whatever is easier at the moment: Tax, spend more, and borrow; or just spend more and borrow.

And Congresses and Presidents will just repeal, delay, or game whatever deficit reduction plan or budget process reform laws we pass, if they begin to pinch. What we enact with a simple majority we can avoid or undo with a simple majority.

On spending "cuts"; candidate Clinton promised to:

Reject the approach of "a program for every problem, and that you can tax and spend our way to prosperity." (August 1992.)

"Reinvent government," because, "we won't get change simply by spending more on programs already on the books." (April 1992.)

What has the performance been like?

First, let's keep in mind, that in Congress, a spending cut is not a spending cut, it's just a lower rate of increase.

That's true of the President and Democratic leadership's budget. That was true of the Dole-Domenici substitute we should have passed yesterday.

Every time someone tries to scare the American people with dire predictions of spending cuts, or pretends that a bill like the one before us today cuts the size of government, a truth-in-budgeting alarm ought to go off. We could balance the budget as early as 5

years from now by reducing the rate of increase in Government spending, that's how explosive that growth in spending is.

How does this budget plan respond to the call to cut spending first? Some 83 percent of the assumed Clinton/Democratic leadership spending cuts are scheduled to occur after the 1996 election.

Net spending under this plan actually goes up almost 1 percent in fiscal year 1994, in addition to inflation and changing caseloads under current law.

The President originally requested $165 billion over 5 years in new domestic spending:

This included $148 billion for programs already on the books;

The Budget Resolution included $153 billion in new spending;

And $19.3 billion in new spending is in this reconciliation bill alone (not counting $17 billion in new Earned Income Tax Credit [EITC] spending that the other side now calls a tax cut).

It's claimed that this budget plan, overall, including all future legislation and assumptions, comprises $260 billion in spending restraint over 5 yrs.

But that includes:

$44 billion previously saved under legislation signed into law by President Bush;

$55 billion assumed from interest savings;

$15 billion in user fees that are called spending cuts, even though they feed the growth of the bureaucracy;

$70 billion in hoped-for appropriations savings, almost all in future years;

And it doesn't count $17 billion in new EITC spending.

Real, net spending savings in Reconciliation amount only to $83 billion over 5 years—less than one-fourth of the projected year-to-year growth in spending.

TRANSPORTATION FUELS TAX

The $24 billion fuel tax in this bill, bad enough in its own right, will go to conference with the $72 billion Btu tax in the House bill. How do we actually expect that to come out?

And remember: The President has said he'd like to see the conference restore something of the House's Btu tax.

That Btu tax would destroy 600,000 to 700,000 jobs—according to estimates by the National Association of Manufacturers and the American Petroleum Institute.

The Finance Committee/Democratic Leadership's 4.3-cent tax, when added to the extension through 1999 of the 2.5-cent 1990 gasoline tax (scheduled to expire in 1995), would:

Reduce Gross Domestic Product by $9 billion in 1994 and $16 billion in 1998;

Destroy 110,000 jobs by 1998—according to the Institute for Research on the Economics of Taxation [IRET];

Increase inflation;

Increase the costs of other goods and services that are sensitive to transportation costs;

Be regressive, hitting low- and middle-income families disproportionately hard;

Punish Americans in the Midwest and West, where it's necessary to travel greater distances to work, go to school, and carry out life's activities, in general.

This tax would not produce the revenues its supporters project. Higher unemployment and lower economic growth resulting from the fuels tax would, in turn, depress income tax revenues and higher costs and inflation would increase the Federal Government's cost of doing business.

At best, according to IRET, this tax would produce only $5.5 billion a year, instead of $8 billion per year after it's fully phased in, as projected by the committee.

This tax would have an unfair impact on State governments, who depend on gasoline taxes as a mainstay of financing.

Finally, what revenues do come in from this fuels tax would be inequitably allocated; such revenues should go into the highway and infrastructure trust funds, and not to finance new spending in other programs.

SMALL BUSINESS TAX INCREASES

The President and Democratic leadership have made a lot of hay out of the soak the rich approach they purport to take with this tax bill. But there's a truth-in-packaging violation here.

The majority of individual tax returns showing Adjusted Gross Incomes of more than $100,000 actually are small business proprietorships, Subchapter S corporations, and partnerships.

Raising their income tax rates and Medicare taxes would not tax real individual income; it taxes working capital, cash flow, and job-creation.

Medicare taxes, for example, are supposed to apply to wages and payrolls.

But, for a small business owner, tax law doesn't distinguish between what the owner draws out to live on and what actually amounts to retained earnings, to be reinvested in the business.

For the small business owner who, technically, shows more than $250,000 in individual income, under this bill: the marginal income tax rate goes from 31 percent to 36 percent; the 10 percent Surtax takes the effective rate to 39.6 percent; repealing the $135,000 Medicare wage base cap adds 2.9 percent to the effective tax rate; and the 3 percent reduction in itemized deductions, for incomes greater than $100,000.

The cumulative effect of all these changes would take the small business man or woman's effective tax rate as high as 44.5—an increase of 43—from 31 percent to 44.5 percent.

It's incredible that this bill would tax successful mom-and-pop operations at 44.5 percent, but would hold the top tax rate for a General Electric, or General Motors, or Time Warner, to 35 percent.

Despite paying much lipservice to the contributions and concerns of small business, President Clinton and the Democratic leadership's taxes hit this sector disproportionately hard. This, even though small businesses created 4.1 million net new jobs in 1988–90, employ 55 percent of the private work force, account for almost 50 percent of GDP, and had been expected to create up to 75 percent of all new jobs in the coming years.

Is this a soak the rich tax bill? No, it would tax jobs and job creation, innovation, and entrepreneurship.

BUSINESS MEALS AND ENTERTAINMENT DEDUCTION

Despite a willingness to change some of the other provisions in the President's tax program, and despite all the evidence that it's a bad idea, this bill still reduces business meal and entertainment deductibility from 80 to 50 percent.

Contrary to the image spun by the bill's supporters, this provision doesn't just affect lobbyists, high rollers, and skybox entertaining.

Among the ordinary Americans, the workers, affected are: truck drivers; traveling sales persons; traveling service employees; vending business employees with large geographical territories; construction workers traveling to distant sites; and workers in other venues where employer-provided meals are a virtual necessity.

The jobs imperiled by this provision number 150,000 to 165,000—according to the Hotel Employees and Restaurant Employees International Union and the National Restaurant Association.

Who else would be affected adversely by this $15.5 billion tax increase? Not the persons the rhetoric surrounding this bill would lead you to expect. Some 78 percent of business lunches occur at low to moderately priced restaurants; and the average business lunch is $9.39.

Of those purchasing business meals: 70 percent have incomes of less than $50,000; 39 percent have incomes below $35,000; a majority are small business persons; and 25 percent are self-employed.

Among food service employees: A majority are women; 24 percent are African-American or Hispanic; and 20 percent are teens.

CONCLUSION

All these facts and profiles related to the business meals deduction underline points to be made throughout this tax bill.

This budget and tax program will injure middle-class, working-class Americans. It will destroy the jobs held by the very individuals on whose behalf it supposedly is offered. It will depress the economy. Government spending will increase, deficits will continue to grow, and an ever-larger mountain of indebtedness will be passed on to depress our children's standard of living.

I call on my colleagues to defeat this bill, and to start over in the budget process, this time in a bipartisan, constructive manner.

Mr. President, I ask unanimous consent that I may include in the RECORD the following information on tax increases and on provisions in S. 1134:

"The Futility of Raising Tax Rates," a Policy Analysis for the CATO Institute, by former Deputy Assistant Treasury Secretary Bruce Bartlett;

"Conservation at Any Cost: Increasing Excise Taxes on Motor Fuels," an Institute for Research on the Economics of Taxation [IRET] Congressional Advisory, by Stephen Entin and Roy Cordato;

A June 21 Letter to me, regarding the business meals deduction, from General President Edward Hanley and Robert Juliano, of the Hotel Employees and Restaurant Employees International Union; and

"Employment Impact of Reducing the Business Meal Tax Deduction," a state-by-state study by the National Restaurant Association.

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

[From the Policy Analysis, Apr. 8, 1993]

THE FUTILITY OF RAISING TAX RATES

(By Bruce Bartlett)

EXECUTIVE SUMMARY

Pesident Clinton has proposed a major increase in federal income tax rates, especially for the rich. His stated reason for that action is that the rich benefited disproportionately from the tax-rate reductions of the 1980s and thus are not paying their fair share. In fact, lower tax rates in the 1980s led to higher, not lower, revenues from the rich. The top 1 percent of taxpayers ranked by income, for example, paid over 25 percent of all federal income taxes in 1990, compared to less than 18 percent in 1981.

The history of tax-rate increases shows that they seldom produce much revenue. Their principal effect is to make higher taxes on the poor and the middle class more palatable. In fact, because of inflation and real growth of the economy, in just a few years tax rates originally imposed on the rich often apply to those with middle incomes. The rich, meanwhile, often evade higher rates by making increased use of deductions and other legal tax shelters. Moreover, higher rates tend to encourage Congress to add new deductions to the tax code.

The Clinton plan, therefore, is based on false premises and is unlikely to achieve the goal of increasing the tax burden on the wealthy. It will probably lead, instead, to higher taxes on the poor and the middle class, as higher revenues from the rich fail to materialize. In the end, the burden of higher taxes must fall largely on the middle class because that is where the bulk of income is. Thus, maintaining a low top tax rate is the best way to ensure that tax rates remain reasonable for those with low and moderate incomes.

INTRODUCTION

During the 1980s the goal of tax reformers on both the left and the right was to reduce marginal tax rates as much as possible. To a large extent, that was accomplished. At the beginning of the 1980s, the top marginal income tax rate was 70 percent; by the end it had fallen to just 28 percent. Moreover, support for low marginal tax rates was so widespread that virtually every major nation on earth followed the U.S. example and cut marginal tax rates in the 1980s. The following are among the reasons for the cuts.

High marginal rates were producing little revenue.

High rates led to a proliferation of legal tax deductions, which created complexity and distorted economic decisionmaking, as well as encouraged tax evasion.

Inflation was pushing many people of moderate means into tax brackets originally intended for the wealthy.

The growing international mobility of both capital and labor put nations with high tax rates at a competitive disadvantage.

Now President Clinton has proposed a reversal of policy in an economic program that explicitly raises marginal tax rates. A new top rate of 36 percent will apply to single individuals with incomes above $115,000 and to married couples who file jointly and have incomes above $140,000. In addition, a surtax of 10 percent will apply to individuals with incomes above $250,000, raising the effective top rate to 39.6 percent.[1]

TAX FAIRNESS?

It is not entirely clear what the true purpose of Clinton's proposal is; in his original plan, which was part of his campaign, he talked only about "forcing the very wealthy to pay their fair share of taxes."[2] He also expressed concern that during the 1980s "the wealthiest 1 percent of Americans got 70 percent of income gains." Although that "fact" is not related directly to higher taxes, the revenue figures are included in a section entitled "Tax Fairness." Those figures indicate that higher tax rates for the top 2 percent of taxpayers, an increase in the Alternative Minimum Tax, and a surtax on millionaires would raise $82.9 billion over four years (1993–96).[3] In the administration's budget document, those revenues are estimated at $96.8 billion between 1994 and 1997.[4] According to the Department of the Treasury, the proposal "would increase the fairness of the tax system by ensuring that upper income taxpayers pay their fair share of federal income taxes."[5]

None of those rationalizations is a valid justification of higher tax rates. First, it is absurd to say that the rich do not "pay their fair share." The share of federal income taxes paid by those with upper incomes has been rising, not falling. Indeed, the top 1 percent of taxpayers now pay more than one-fourth of all federal income taxes, as shown in Table 1.

TABLE 1.—SHARE OF TOTAL FEDERAL INCOME TAX BURDEN BY ADJUSTED GROSS INCOME PERCENTILE

[Amounts in percent]

Tax year	Top 1	Top 5	Top 10	Top 25	Top 50
1980	19.0	36.8	49.3	73.0	92.9
1981	17.6	35.0	48.0	72.3	92.5
1982	19.0	36.1	48.6	72.5	92.6
1983	20.3	37.3	49.7	73.1	92.8
1984	21.1	38.0	50.6	73.5	92.6
1985	21.8	38.8	51.5	74.1	92.8
1986	25.0	41.8	54.0	75.6	93.4
1987	24.6	43.1	55.5	76.8	93.9
1988	27.5	45.5	57.2	77.8	94.3
1989	25.2	44.0	55.9	77.4	94.3
1990	25.6	44.1	55.8	77.4	94.4

Source: Internal Revenue Service, unpublished data.

The second rationalization is also flawed in several ways. First, the statement that the rich got 70 percent of the income gains in the 1980s is flatly wrong. The source for that assertion was, apparently, a calculation made by Professor Paul Krugman of MIT, which was quoted in the New York Times.[6] According to the Times, Krugman's calculation showed that "60 percent of the growth in after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in pretax income—went to the wealthiest 660,000 families, each of which had an annual income of at least $310,000 a year, for a family of four."

That statement, which appeared in early editions of the Times, implies that 60 percent of the aggregate income growth of all Americans went to the top 1 percent of taxpayers. Had that been the case, it would have meant that the top 1 percent of Americans got 60 percent of $830 billion, which was the increase in aggregate after-tax family income in the United States between 1977 and 1989. According to the Congressional Budget Office, the top 1 percent of taxpayers actually got about one-fourth of the increase in aggregate income during that period. However, the CBO cautions that even the correct figure can be misleading.

"The rise in overall income says nothing about whether the average family at any point in the income distribution was better off as a result or how any improvements in well-being were distributed among families. If average family income had not changed, the 27 percent increase in the number of families alone would have increased aggregate income by that percentage or about $580 billion; that amounts to more than two-thirds of the total actual increase.[7]"

In fact, Krugman was talking about *average* income growth. The *Times* clarified that point in later editions of the same day, although no comment or correction notice ever appeared. The revised editions stated, "An outsized 60 percent in *the average* after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in *average* pretax income—went to the wealthiest 660,000 families" (emphasis added).[8]

KRUGMAN ANALYSIS FLAWED

Krugman, it turns out, was wrong on several points. First, he apparently made a mathematical error in recalculating some data originally published by the CBO. According to his methodology, the "correct" figure is 70 percent, rather than 60 percent. However, even that number turns out to be wrong because Krugman's methodology failed to adjust for changes in family size over the period. Between 1977 and 1989 average family size declined by 10 percent, with the largest reduction in families in the middle-income quintiles. That is significant because small families need less income than do large families to maintain a given standard of living. Table 2 shows the "correct" data based on Krugman's original methodology and the revised figures adjusted by the CBO for changes in family sizes. As one can see, the revised data indicate that the rich did much less well than Krugman stated, and the poor and the middle class did much better. Yet, as noted earlier, Governor (now President) Clinton continued to use the incorrect numbers to justify his case for higher taxes on the rich.

TABLE 2.—SHARE OF AFTER-TAX INCOME AND DISTRIBUTION OF CHANGES IN AVERAGE INCOME AMONG INCOME CATEGORIES

[Amounts in percent]

Income category	Krugman			Revised		
	1977	1989	Gain[1]	1977	1989	Gain[1]
Bottom 20 percent	6	4	−11	6	4	−7
Second 20 percent	12	10	−7	11	10	3
Middle 20 percent	16	15	2	15	15	11
Fouth 20 percent	23	22	8	22	21	15
81st to 90th percentiles	16	15	11	16	15	11
91st to 95th percentiles	10	10	10	10	10	8
96th to 99th percentiles	11	12	25	12	13	19

Footnotes at end of article.

TABLE 2.—SHARE OF AFTER-TAX INCOME AND DISTRIBUTION OF CHANGES IN AVERAGE INCOME AMONG INCOME CATEGORIES—Continued

[Amounts in percent]

Income category	Krugman			Revised		
	1977	1989	Gain[1]	1977	1989	Gain[1]
Top 1 percent	7	12	70	8	13	44

[1] Share of gain in average after-tax income.

Source: Congressional Budget Office, "Measuring the Distribution of Income Gains," CBO staff memorandum, March 1992, pp. 3–4.

Even with all the adjustments, however, the data are still conceptually flawed, insofar as they purport to reflect a redistribution of income from lower income and middle-income Americans to the rich. As Michael Boskin, chairman of President Bush's Council of Economic Advisers, explains:

"Mr. Krugman's calculation *bears no relation to how gains from economic growth are distributed*. Suppose an economy has two workers with annual incomes of $20,000 and $30,000, respectively. A few years later, these same workers earn $30,000 and $40,000, respectively, and two new workers obtain jobs earning $20,000 each, all figures adjusted for inflation.

"Total real income increased by $60,000. One-sixth accrued to the worker now representing the top 25 percent of income earners. One-sixth accrued to the worker in the next 25 percent of income earners. And two-thirds accrued to the bottom 50 percent of earners.

"Average income increased by $2,500 (from $25,000 to $27,500) while average income in the top half of the distribution increased by $5,000 (from $30,000 to $35,000). Mr. Krugman's calculation of the gain in average income would indicate that people in the top *half* accounted for *100 percent* of the gains from economic growth—of the gain in average income—even though the two original workers received equal raises, one moved from the bottom half to the top half of the distribution, and two new workers found jobs and now constitute the bottom half (emphasis in original).[9]"

It should also be noted that the data Krugman used are for money income; thus, the value of all in-kind government transfers, such as those for Medicaid and public housing, is excluded. Those and other transfers, as well as the tax system, have a substantial effect on income distribution, reducing incomes of the wealthy and increasing those of the poor. Table 3 illustrates that effect.

TABLE 3—EFFECTS OF TAXES AND TRANSFER PAYMENTS ON HOUSEHOLD INCOME BY INCOME QUINTILE, 1990

Quintile	Before taxes and transfers	After taxes and transfers
Average income:		
Lowest	$2,096	$10,904
Second	14,664	18,676
Third	28,836	27,017
Fourth	45,836	38,780
Highest	93,966	71,944
Income share (percent):		
Lowest	1.1	6.5
Second	7.9	11.2
Third	15.5	16.1
Fourth	24.7	23.2
Highest	50.7	43.0

Source: Council of Economic Advisers, "Economic Report of the President, 1992" (Washington: U.S. Government Printing Office), p. 136

Last, note that, contrary to Clinton's statement about the 1980s, Krugman was looking at income changes beginning in 1977, well before the beginning of the Reagan Republican era, which Clinton obviously meant to impugn. As the late Warren Brookes and others have shown, the common use of 1977 as a base year for comparison has the effect of making it appear that the Reagan administration was responsible for declining incomes, rising income inequality, and the like, when the Carter administration (1977–80) was actually to blame.[10] In fact, the CBO implicitly admits that bias, as shown in Table 4.

TABLE 4.—SHARES OF AFTER-TAX INCOME AND DISTRIBUTION AMONG INCOME CATEGORIES OF CHANGES IN AVERAGE INCOME

[Amounts in percent]

Income category	1977–89[1]	1980–89	1985–89
Bottom 20 percent	−7	−3	2
Second 20 percent	3	3	12
Middle 20 percent	11	11	15
Fourth 20 prcent	15	15	12
81st to 90th percentiles	11	14	12
91st to 95th percentiles	8	8	1
96th to 99th percentiles	19	19	13
Top 1 percent	44	38	37

[1] Share of gain in average after-tax income.

Source: Congressional Budget Office, "Measuring the Distribution of Income Gains," p. 7.

TAXES AND REDISTRIBUTION

At this point, one might well ask what the chances are that increasing the top federal income tax rate—say, on the top 2 percent, those with incomes over $200,000—will actually achieve the apparent goal of equalizing the distribution of income. Clearly, much redistribution already takes place, as indicated in Table 3. But how much more could be achieved solely on the tax side?

History shows that the ability to extract higher revenues from the rich is extremely limited. Higher rates simply cause the rich to shift their income from taxable forms to nontaxable forms or to forms that are taxed at a lower rate. The former would include tax-free municipal bonds, the latter capital gains.[11] Other probable effects include increased use of deductions already in effect, such as business losses to reduce taxable income, and the growth of tax evasion, both of which have been directly related to marginal income tax rates.[12]

Additional economic effects include a decline in labor supply as those affected by higher tax rates substitute leisure for labor by, for example, retiring earlier.[13] They also shift their compensation from wages to nontaxed benefits, such as pensions and insurance.[14] They shift from wage labor to self-employment, because self-employment provides greater opportunities for tax avoidance and evasion and because they can incorporate and thus pay tax at the corporate tax rate if it is lower.[15] In fact, there is strong evidence that the Tax Reform Act of 1986, by reducing the top individual income tax rate below the corporate rate, encouraged de-incorporation; many corporations became partnerships or Subchapter S corporations, income for both of which is taxed at the individual rather than the corporate tax rate.[16] Presumably, the reverse effect would occur if Congress raised the top individual rate to 39.6 percent (41 percent on earned income) and set the corporate rate at 36 percent. As a result, the revenue yield from any increase in marginal tax rates would be far less than expected.[17]

Figure 1 illustrates the history of the top federal income tax rate since inception of the tax in 1913. As one can see, the top rate began at 7 percent, rose sharply during World War I, and peaked at 77 percent in 1918. The top rate fell during the 1920s, reaching a low of 24 percent in 1929, before rising steadily during the Roosevelt era. The top rate peaked at 94 percent at the height of World War II. The World War II rates stayed relatively intact during the 1950s and did not decline until the Kennedy-Johnson tax cut of the early 1960s, which brought the top rate down to 70 percent. The Reagan tax cut brought the top rate down to 28 percent.[18] The 1990 budget agreement increased the top rate to 31 percent, where it stands today.[19]

(Figure 1 not reproducible in the RECORD.)

ORIGIN OF HIGH RATES

World War I was a godsend for statists of the time, giving them an excuse to raise tax rates far higher than anyone had imagined they could ever go when the income tax was instituted in 1913. As Princeton historian Arthur Link puts it: "Progressives used the necessity for vastly increased revenues as the occasion for putting their * * * tax theories into effect. The new income and inheritance taxes constituted, for that day, a powerful equalitarian attack on great property, unrivaled even by Lloyd George's 'Tax on Wealth' of 1909."[20] Historian Gerald Carson adds, "World War I built an acceptance for the income tax that might have never existed otherwise."[21]

Clearly, wars are the major factors that lead to increases in tax rates and legitimatize tax systems.[22] Even Alexander Hamilton recognized that. As he told Robert Morris in 1781, "The object of the war * * * would supply the want of habit, and reconcile the minds of the people to paying to the utmost of their ability."[23]

Unfortunately, governments never seem to raise rates temporarily for the duration of a war; instead they impose permanent tax increases. It is then difficult to get tax rates back down to their prewar levels. There are always war debts to pay, veterans' benefits to pay, and any number of "pressing social needs" that require the maintenance of wartime tax rates.[24] Albert Gallatin, Thomas Jefferson's treasury secretary, recognized that and urged that all taxes be temporary because otherwise some new purpose for which to spend the money would always be found.[25]

In his 1919 State of the Union message, President Woodrow Wilson recognized that continuation of the wartime tax rates would harm the economy and ultimately reduce government revenues.

"The Congress might well consider whether the higher rates of income and profits taxes can in peace times be effectively productive of revenue, and whether they may not, on the contrary, be destructive of business activity and productive of waste and inefficiency. There is a point at which in peace times high rates of income and profits taxes discourage energy, remove the incentive to new enterprise, encourage extravagant expenditures and produce industrial stagnation with consequent unemployment and other attendant evils.[26]"

Wilson's treasury secretary, Carter Glass, was equally emphatic about the need for lower taxes. As he stated in his Annual Report for 1919:

"The upper brackets of the surtax have already passed the point of productivity, and the only consequence of any further increase would be to drive possessors of these great incomes more and more to place their wealth in the billions of dollars of wholly exempt securities heretofore issued and still being issued by States and municipalities, as well as those heretofore issued by the United States. This process not only destroys a source of revenue to the Federal Government, but tends to withdraw the capital of very rich men from the development of new enterprises and place it at the disposal of State

and municipal governments upon terms so easy to them (the cost of exemptions from taxation falling more heavily upon the Federal Government) as to stimulate wasteful and nonproductive expenditure by State and municipal governments.[27]"

Throughout 1920 the Wilson administration pressed hard for tax reduction, especially of surtaxes, emphasizing that high wartime rates were actually reducing the government's revenue.[28] However, then as now, congressional Democrats were obsessed with holding on to as much of the people's income as possible, the better to spend it themselves. It was also argued that high statutory tax rates were necessary for reasons of "fairness." As a result, no action was taken, and Republicans picked up many House and Senate seats. In his inaugural address, Harding said that his highest priority was the reduction of wartime tax rates, "which have become unproductive and are so artificial and burdensome as to defeat their own purpose."[29]

During the 1920s tax rates were cut massively, with the amazing result that revenues actually increased, especially from the wealthy.[30] That was due to the vast expansion of the tax base as a result of the general economic expansion of the 1920s that was caused largely by the tax cuts.[31] Table 5 presents data on that point.

TABLE 5.—FEDERAL INCOME TAX REVENUE BY INCOME CLASS, 1921 AND 1926

Income class	Revenue collected [1]		Percent of total	
	1921	1926	1921	1926
Less than $10,000	155.1	32.5	22.5	4.6
$10,000–$25,000	121.8	70.3	17.6	9.9
$25,000–$50,000	108.3	109.4	15.7	15.4
$50,000–$100,000	111.1	136.6	16.1	19.2
Over $100,000	194.0	361.5	28.1	50.9
Total	690.2	710.2	100.0	100.0

[1] Millions of constant 1929 dollars.

Source: James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden?" Federal Reserve Bank of Atlanta "Economic Review," March 1982, p. 25.

THE ROOSEVELT ERA

The onset of the Great Depression in 1929 led to a sharp decline in tax revenues, as the economy contracted. President Herbert Hoover's response was to push for a major tax increase. The Revenue Act of 1932 raised tax rates across the board, with the top rate rising from 25 percent to 63 percent. That increase was justified on the grounds that the budget needed to be balanced to restore business confidence. Yet the $462 million deficit of 1931 jumped to $2.7 billion by 1932 despite the tax increase. Interestingly, the major cause of the deficit's rise was a sharp decline in income tax revenue, which fell from $1.15 billion in 1930 to $834 million in 1931, $427 million in 1932, and just $353 million in 1933. Moreover, as Table 6 demonstrates, the higher tax rates on the wealthy actually caused the tax burden to be shifted to the nonwealthy.

TABLE 6.—FEDERAL INCOME TAX REVENUE BY INCOME CLASS, 1931 AND 1932

Income class	Revenue collected [1]		Percent of total	
	1931	1932	1931	1932
Less than $25,000	51.6	134.0	21.0	36.5
$25,000–$50,000	40.1	48.1	16.3	13.0
$50,000–$100,000	44.8	51.7	18.2	14.1
$100,000–$300,000	51.9	66.2	21.1	18.0
Over $300,000	57.8	67.4	23.5	18.4

[1] Millions of constant 1931 dollars.

Source: James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden?" p. 27.

Economists today recognize Hoover's tax increase as a terrible blunder, which deepended and prolonged the depression.[32] In the 1932 campaign Franklin D. Roosevelt attacked Hoover for his error. In a speech in Pittsburgh on October 19, for example, Roosevelt blamed the economic malaise on Hoover's tax policy.

"Taxes are paid in the sweat of every man who labors because they are a burden on production and are paid through production. If those taxes are excessive, they are reflected in idle factories, in tax-sold farms, and in hordes of hungry people, tramping the streets and seeking jobs in vain. Our workers may never see a tax bill, but they pay. They pay in deductions from wages, in increased cost of what they buy, or—as now—in broad unemployment throughout the land. There is not an unemployed man, there is not a struggling farmer, whose interest in this subject is not direct and vital. It comes home to every one of us![33]"

Upon taking office, however, Roosevelt made no effort to reduce taxes but instead pressed for still higher rates on the rich. The 1935 tax bill, in particular, was especially aimed at the very wealthy, despite strong reservations on the part of Roosevelt's advisers that the result would be a deepening of the depression.[34] In the end, the top rate was raised to 79 percent, estate taxes were raised, and a wide variety of other taxes increased as well. However, altogether the bill raised just $250 million.[35] In fact, it was said that only one person in America, John D. Rockefeller, actually paid any tax at the top rate.[36]

The limited impact of the 1935 tax bill in terms of dollars, however, greatly understates its significance. Joseph Schumpeter, for one, believed that the advent of "taxation for taxation's sake and regardless of insignificance of results for the Treasury" would, within a few years, have a seriously negative effect on the economy.[37] In fact, the U.S. economy suffered a sharp setback in 1937. That and Democratic losses in 1938 eventually led to a scale-back of overt "soak-the-rich" tax policies. However, rather than cut rates, Congress expanded tax shelters, thus mitigating much of the redistributive impact of earlier tax bills.[38]

The onset of World War II led to a further increase in tax rates. Of much greater significance, however, was the fact that the vast bulk of population was required to pay income taxes. Before World War II, the federal income tax had been a very limited tax—on the eve of war fewer than 14 percent of workers even filed returns. By the end of the war, three-quarters of all workers did so.

As noted earlier, wartime tax rates tend not to be reduced afterward. Such was the case with the World War II rates. President Harry S Truman fought the Republican Congress in 1947 and 1948 to prevent any reduction in tax rates. Although modest cuts were finally enacted over his veto, they proved to be short-lived, as the onset of the Korean conflict in 1950 again required an increase in taxes.

EISENHOWER AND KENNEDY

With the election of Republican Dwight D. Eisenhower as president and a Republican Congress in 1952, a golden opportunity to cut the wartime tax rates was created. Unfortunately, Eisenhower believed that taxes could not be cut until the budget was balanced. "We cannot afford to reduce taxes, reduce income," he said. "until we have in sight a program of expenditure that shows that the factors of income and outgo will be balanced."[39]

Although Eisenhower's sentiment was admirable, losses in the 1954 election cost the Republicans control of Congress. The return of Democratic control meant that any chance of reducing wartime tax rates was lost for the balance of the 1950s. It took the election of a Democratic president in 1960 to finally bring that about.

Eisenhower's fiscal conservatism carried a heavy price. There were three recessions during his administration—July 1953 through May 1954, August 1957 through April 1958, and April 1960 through February 1961—and real growth of the gross domestic product averaged just 2.5 percent over those eight years. In large part, that sluggish growth was due to high tax rates, not just on the wealthy but on the middle class as well. In fact, as Figure 2 shows, increasing tax rates on the wealthy led to increases in tax rates on middle-class incomes (defined as $50,000 for a family of four in 1992) as well.[40]

(Figure 2 not reproducible in the RECORD.)

Thus, Democrat John F. Kennedy was able to run as the candidate of growth in 1960, promising to "get the economy moving again." Republican Richard M. Nixon, saddled with the legacy of slow growth during the Eisenhower years, paid the price, loss of a close election.

Kennedy understood, as Eisenhower had not, that tax cuts have a better chance of bringing about a balanced budget than does the continuation of confiscatory wartime tax rates. He spelled that out in a speech before the Economic Club of New York on December 14, 1962.

"Our true choice is not between tax reduction, on the one hand, and the avoidance of large Federal deficits on the other. It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough revenue to balance our budget, just as it will never produce enough jobs or enough profits. Surely the lesson of the last decade is that budget deficits are not caused by wild-eyed spenders, but by slow economic growth and periodic recessions, and any new recession would break all deficit records.

"In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenue in the long run is to cut the rates now. The experience of a number of European countries and Japan has borne this out. This country's own experience with tax reduction in 1954 has borne this out. And the reason is that only full employment can balance the budget, and tax reduction can pave the way to that employment. The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring about budget surplus.

"I repeat: our practical choice is not between a tax-cut deficit and budgetary surplus. It is between two kinds of deficits: a chronic deficit of inertia, as the unwanted result of inadequate revenues and a restricted economy; or a temporary deficit of transition, resulting from a tax cut designed to boost the economy, increase tax revenues, and achieve—and I believe this can be done—a budget surplus. The first type of deficit is a sign of waste and weakness; the second reflects an investment in the future.[41]"

On January 24, 1963, Kennedy sent his tax cut proposal to Congress. It called for reducing the top marginal income tax rate from 91 percent to 70 percent, reducing the lowest income tax rate from 20 percent to 14 percent, and cutting the corporate income tax rate from 52 percent to 47 percent.[42] Interestingly, Kennedy's tax plan was opposed by some of

his more liberal advisers, such as John Kenneth Galbraith.[43] They favored stimulating the economy by increasing government spending. But Kennedy held firm, not just on the need for tax cuts, but on cuts in marginal tax rates.

Although he did not live to see his proposal enacted into law, Kennedy's plan passed Congress essentially as proposed in early 1964. Subsequent analysis strongly indicates that, as Kennedy believed it would, the tax cut led to an increase in federal revenue, especially from the rich, and a significant increase in economic growth.[44] The data in Tables 7 and 8 support that view.

TABLE 7.—ESTIMATED AND ACTUAL FEDERAL RECEIPTS, 1964–67

[Dollars in billions]

Year	Estimated	Actual	Difference
1964	$109.3	$112.7	+$3.4
1965	115.9	116.8	+0.9
1966	119.8	130.9	+11.1
1967	141.4	149.6	+8.2

Source: Congressional Budget Office, "A Review of the Accuracy of Treasury Revenue Forecasts, 1963–1978" (Washington: U.S. Government Printing Office, February 1981), p. 4.

TABLE 8.—TAX REVENUE FROM THE WEALTHY, 1961–66

[Dollars in millions]

Income class	1961	1962	1963	1964	1965	1966
$100,000 to $500,000	1,970	1,740	1,890	2,220	2,752	3,176
$500,000 to $1 million	297	243	243	306	408	457
Over $1 million	342	311	326	427	603	590

Source: Michael K. Evans, "The Truth about Supply-Side Economics" (New York: Basic Books, 1983), p. 199.

Unfortunately, the positive economic effects of the Kennedy tax cut were not long-lived. The outbreak of inflation in the late 1960s pushed people into higher tax brackets and thus increased average marginal tax rates. Figure 3 shows the relentless growth of the average marginal tax rate for all taxpayers.[45]

(Figure 3 not reproducible in the RECORD.)

Despite few legislated tax increases during the late 1960s and 1970s, rising inflation and lack of indexing meant that higher nominal incomes pushed taxpayers into higher and higher tax brackets. The result was, as theory predicts, an increase in tax evasion and avoidance, which shrank the tax base.[46] For that reason, many economists predicted that a cut in tax rates had the potential to expand the tax base by reducing the incentive to evade or avoid taxation and thereby increasing government revenue.

Although the notion that a tax cut might increase revenue is often derided, we have already seen evidence from the 1920s and 1960s that tax cuts do, indeed, increase revenue. Conversely, tax increases may lose revenue. As John Maynard Keynes put it:

"Nor should the argument seem strange that taxation may be so high as to defeat its object, and that, given sufficient time to gather the fruits, a reduction of taxation will run a better chance than an increase of balancing the budget. For to take the opposite view today is to resemble a manufacturer who, running at a loss, decides to raise his price, and when his declining sales increase the loss, wrapping himself in the rectitude of plain arithmetic, decides that prudence requires him to raise the price still more—and who, when at last his account is balanced with naught on both sides, is still found righteously declaring that it would have been the act of a gambler to reduce the price when you were already making a loss."[47]

When Ronald Reagan was elected president in 1980, his principal campaign promise was to cut tax rates. In 1981 that promise was fulfilled, and the top marginal income tax rate was reduced from 70 percent—where it had been since Kennedy's day—to 50 percent. Taxpayers in other tax brackets received similar rate reductions. Although it is often asserted that the Reagan administration predicted an increase in revenue from that tax cut, all revenue figures released by the Reagan administration followed standard revenue-estimating procedures, which assumed a dollar of revenue loss for every dollar of tax "cut."[48] Nevertheless, considerable research has been done on the revenue effects of the Reagan program, including the effects of the Tax Reform Act of 1986, which lowered the top rate from 50 percent to 28 percent, and there is strong evidence that revenues from the wealthy did, indeed, increase.[49]

Although the Clinton administration assumes substantial revenues will be generated by an increase in the top rate, as Clinton's campaign documents did, the evidence from theory and history strongly suggests that projected revenue targets will not be met. Not only will a higher top rate encourage tax evasion and avoidance, but higher tax rates will raise the cost of capital, thus lowering investment and increasing unemployment in the long run. Recent analyses of Clinton's campaign proposals support that view.[50] As a consequence, it is now widely reported that higher tax rates for the rich may not necessarily raise much revenue.[51]

CONCLUSION

President Clinton's proposal to raise taxes on the rich is based on false premises:

The rich got richer in the 1980s at the expense of the poor and the middle class.

That was the result of Reagan's tax cuts, which also caused revenue from the wealthy to fall.

Higher tax rates will both increase government revenue from the rich and redistribute income from the rich to the poor and the middle class.

In fact, the rich did not getter richer at the expense of anyone. All income classes benefited from the prosperity of the 1980s. Moreover, the data on which Clinton has relied to support his proposal are deeply flawed.

In addition, authoritative data from the Internal Revenue Service clearly demonstrate that the tax cuts of the 1980s led to higher, not lower, revenues from the rich. Both logic and the experience of history strongly suggest that the opposite result would occur if tax rates were increased.

Last, there is no evidence that higher taxes on the rich would do anything to benefit the economic position of the poor and the middle class. On the contrary, there is strong evidence that higher taxes on the rich would eventually lead to higher taxes on the middle class.

FOOTNOTES

[1] Actually, the top rate on earned income (wages and salaries) would be even higher because Clinton has proposed eliminating the current $135,000 cap on the 1.45 percent Medicare tax. Thus, for earned income, the top rate would be over 41 percent. Moreover, for married couples filing separately, the threshold for the surtax would be only $125,000.

[2] Bill Clinton and Al Gore, "Putting People First: How We Can All Change America (New York: Times Books, 1992), p. 4.

[3] Ibid., p. 31.

[4] Office of Management and Budget "A Vision of Change for America" (Washington: U.S. Government Printing Office, 1993), p. 139.

[5] Department of the Treasury, "Summary of the Administration's Revenue Proposals" (Washington: Department of the Treasury, 1993), p. 34.

[6] Sylvia Nasar, "Even among the Well-Off, the Richest Get Richer," New York Times, March 5, 1992. It was later reported that when Clinton saw that figure in the Times, he "went crazy" according to his press secretary Dee Dee Myers. See Sylvia Nasar, "However You Slice the Data the Richest Did Get Richer," New York Times, May 11, 1992.

[7] Congressional Budget Office, "Measuring the Distribution of Income Gains," CBO staff memorandum, March 1992, p. 2.

[8] The first quote appeared in editions of the New York Times distributed in the Washington area. The second quote is from the article as it now appears in a Nexis printout. Subsequently, Krugman published several articles explaining what he had said or meant to say in the first place. See Paul Krugman, "Disparity and Despair," U.S. News & World Report, March 23, 1992, pp. 54–55; idem, "Ignorance and Inequality," U.S. News & World Report, June 1, 1992, pp. 48–49; and idem, "The Right, the Rich, and the Facts," American Prospect, no. 11 (Fall 1992): 19–31.

[9] Michael Boskin, Letter to the editor, Wall Street Journal, July 3, 1992.

[10] See Warren Brookes, "Hiding a Boom in a Statistical Bust," Wall Street Journal, August 6, 1987; and idem, "Trying to Blame Carter on Reagan," Washington Times, February 8, 1988. The Clinton administration is continuing the fraud; see Office of Management and Budget, pp. 7, 18.

[11] Throughout most of U.S. history, capital gains have been taxed at a lower rate than ordinary income. It is widely believed that the differential was abolished by the Tax Reform Act of 1986. However, the 1990 budget agreement, which raised the top income tax rate from 28 percent to 31 percent, fixed the maximum capital gains tax at 28 percent. Even that small increase, however, has been enough to motivate tax-shelter activity by wealthy individuals who, in effect, convert ordinary income into capital gains. That trend will certainly accelerate in the future, given the Clinton administration's proposal to keep the maximum capital gains tax rate at 28 percent.

[12] See James Long, "Tax Rates and Tax Losses: A Preliminary Analysis Using Aggregate Data," Public Finance Quarterly 12, no. 4 (October 1984): 457–72; Charles Clotfelter, "Tax Evasion and Tax Rates: An Analysis of Individual Returns," Review of Economics and Statistics 65, no. 3 (August 1983): 363–73; Roger Waud, "Tax Aversion and the Laffer Curve," Scottish Journal of Political Economy 33, no. 3 (August 1986): 213–27; Richard McKenzie, "The Micro and Macro Economic Effects of Changes in the Statutory Tax Rates," Review of Social Economy 31, no. 1 (April 1973): 20–30; James Alm, Roy Bahl, and Matthew N. Murray, "Tax Structure and Tax Compliance," Review of Economics and Statistics 72, no. 4 (November 1990): 603–13; and Steven Crane and Farrokh Nourzad, "Tax Rates and Tax Evasion: Evidence from California Amnesty Data," National Tax Journal 43, no. 2 (June 1990): 189–99.

[13] Jerry Hausman, "Labor Supply," in How Taxes Affect Economic Behavior, ed. Henry Aaron and Joseph A. Pechman (Washington: Brookings Institution, 1981), pp. 27–64; and Harvey Rosen, "What Is Labor Supply and Do Taxes Affect It?" American Economic Review 70, no. 2 (May 1980): 171–76.

[14] James E. Long and Frank Scott, "The Income Tax and Nonwage Compensation," Review of Economics and Statistics 64, no. 2 (May 1982): 211–19; Stephen A. Woodbury, "Substitution between Wage and Nonwage Benefits," American Economic Review 73, no. 1 (March 1983): 166–82; James E. Long and Frank A. Scott, Jr., "The Impact of the 1981 Tax Act on Fringe Benefits and Federal Tax Revenues," National Tax Journal 37, no. 2 (June 1984): 185–94; and Frank Sloan and Killard W. Adamache, "Taxation and the Growth of Nonwage Compensation," Public Finance Quarterly 14, no. 2 (April 1986): 115–37.

[15] James E. Long, "Income Taxation and the Allocation of Market Labor," Journal of Labor Research 3, no. 3 (Summer 1982): 259–76.

[16] Roger H. Gordon and Jeffrey K. Mackie-Mason, "Effects of the Tax Reform Act of 1986 on Corporate Financial Policy and Organization Form," in Do Taxes Matter? ed. Joel Slemrod (Cambridge, Mass.: MIT Press, 1990), pp. 91–131; Myron S. Scholes and Mark A. Wolfson, "The Role of Tax Rules in the Recent Restructuring of U.S. Corporations," in Tax Policy and the Economy, vol. 5, ed. David Bradford (Cambridge, Mass.: MIT Press, 1991), pp. 1–24; James M. Poterba, "Why Didn't the Tax Reform Act of 1986 Raise Corporate Taxes?" in Tax Policy and the Economy, vol. 6, ed. James M. Poterba (Cambridge, Mass.: MIT Press, 1992), pp. 43–58.

[17] Edgar K. Browning, "Elasticities, Tax Rates, and Tax Revenue," National Tax Journal 42, no. 1 (March 1989): 45–58.

[18] Due to the phase-out of some deductions, some people paid a marginal rate of 33 percent. However, for those with the highest incomes, 28 percent was the top rate.

[19] Although 31 percent is the top statutory rate, because of anomalies in the interaction of various features of the tax code, some people may actually pay as much as 52 percent federal income tax on each additional (marginal) dollar earned, according to some experts. See Philip J. Harmelink and Phyllis V. Copeland, "'Hidden Taxes' through Phaseouts and Floors: Assessment and Policy Implications," *Tax Notes*, January 4, 1993, p. 83.

[20] Author Link, "Woodrow Wilson and the Progressive Era, 1910–1017" (1954; reprint, New York: Harper Torchbooks, 1963), pp. 195–96.

[21] Gerald Carson, "The Golden Egg: The Personal Income Tax, Where It Came From, How It Grew" (Boston: Houghton Mifflin, 1977), p. 106.

[22] See Edward Ames and Richard T. Rapp, "The Birth and Death of Taxes: A Hypothesis," Journal of Economic History 37, no. 1 (March 1977): 161–78; C. Northcote Parkinson, "The Law and the Profits" (Boston: Houghton Mifflin, 1960), pp. 38–50; and Bruce D. Porter, "Parkinson's Law Revisited: War and the Growth of American Government," Public Interest, no. 60 (Summer 1980): 50–68.

[23] Quoted in Dall W. Forsythe, Taxation and Political Change in the Young Nation, 1781–1833 (New York: Columbia University Press, 1977), p. 51.

[24] The Democrats and the House Ways and Means Committee, for example, colorfully described their opposition to the tax reduction bill of 1921 as follows: What an impregnable position would it be and what an appeal it would make to the sense of right and justice of the people for the Democrats to take the position that *not a dollar of taxes should be reduced on these profiteering corporations and on the millionaires and multimillionaires that reaped harvests of wealth during the war, as long as there is a single disabled or wounded soldier or a single widow or orphan of a dead soldier or a single veteran in need* (emphasis in original). In U.S. Congress, House of Representatives, "Minority Views," Report no. 350, part 2, 67th Cong., 1st sess., p. 4.

[25] Quoted in Forsythe, p. 53.

[26] Congressional Record, 66th Cong., 2d sess., December 2, 1919, vol. 59, part 1, p. 53.

[27] "Annual Report of the Secretary of the Treasury on the State of the Finances, for the Fiscal Year Ended June 30, 1919" (Washington: U.S. Government Printing Office, 1920), p. 24.

[28] See "Annual Report of the Secretary of the Treasury on the State of the Finances, for the Fiscal Year Ended June 30, 1920" (Washington: U.S. Government Printing Office, 1921), pp. 25–47.

[29] Congressional Record (April 12, 1921), p. 170.

[30] For details, see Randolph E. Paul, "Taxation in the United States" (Boston: Little, Brown, 1954), pp. 131–42; John F. Witte, "The Politics and Development of the Federal Income Tax" (Madison: University of Wisconsin Press, 1985), pp. 88–96. Interestingly, one historian has concluded that the Republican tax policies of the 1920s were based essentially on proposals generated by Wilson's Treasury Department. Thus, at least at the presidential level, there was far more continuity on tax policy between Wilson and the subsequent Harding, Coolidge, and Hoover administrations than is commonly believed. See Lawrence L. Murray, "Bureaucracy and Bi-partisanship in Taxation: The Mellon Plan Revisited," Business History Review 52, no. 2 (Summer 1978): 200–25.

[31] Robert B. Ekelund, Jr., and Mark Thornton, "Schumpeterian Analysis, Supply-Side Economics and Macroeconomic Policy in the 1920s," Review of Social Economy 44, no. 3 (December 1986): 221–37. See also Benjamin G. Rader, "Federal Taxation in the 1920s: A Re-examination," Historian 33, no. 3 (May 1971): 415–35.

[32] E. Carey Brown, "Fiscal Policy in the 'Thirties: A Reappraisal," American Economic Review 46, no. 5 (December 1956): 857–79; and Herbert Stein, "The Fiscal Revolution in America" (Chicago: University of Chicago Press, 1969), pp. 26–38.

[33] "The Public Papers and Addresses of Franklin D. Roosevelt," vol. 1, "The Genesis of the New Deal, 1928–1932" (New York: Random House, 1938), p. 798.

[34] Raymond Moley, "After Seven Years" (New York: Harper & Brothers, 1939), pp. 310–11.

[35] Roy G. Blakey and Gladys C. Blakey, "The Revenue Act of 1935," American Economic Review 25, no. 4 (December 1935): 676.

[36] Mark Leff, "The Limits of Symbolic Reform: The New Deal and Taxation, 1933–1939" (New York: Cambridge University Press, 1984), p. 145.

[37] Joseph A. Schumpeter, Business Cycles, 2 vols. (New York: McGraw-Hill, 1939), vol. 2, p. 1039.

[38] Thomas M. Renaghan, "Distributional Effects of Federal Tax Policy, 1929–1939," Explorations in Economic History 21, no. 1 (January 1984): 50–56.

[39] "Public Papers of the Presidents of the United States: Dwight Eisenhower, 1953" (Washington: U.S. Government Printing Office, 1960), p. 12.

[40] As F. A. Hayek has argued, the main purpose of high statutory tax rates on the wealthy is to justify higher tax rates on the masses than they would otherwise be willing to tolerate. Hayek, "The Constitution of Liberty" (Chicago: University of Chicago Press, 1960), p. 311.

[41] "Public Papers and Addresses of the Presidents of the United States: John F. Kennedy, 1962" (Washington: U.S. Government Printing Office, 1963), pp. 879–80. See also "Economic Report of the President, 1963" (Washington: U.S. Government Printing Office, 1963), p. xiv.

[42] "Public Papers and Address of the Presidents of the United States: John F. Kennedy, 1963" (Washington: U.S. Government Printing Office, 1964), pp. 73–92.

[43] Arthur Schlesinger, "A Thousand Days" (Boston: Houghton Mifflin, 1965), pp. 648–50, 1003–4; John Kenneth Galbraith, Ambassador's Journal (Boston: Houghton Mifflin, 1969), p. 381; and Otto Eckstein, "The Economics of the 1960's—A Backward Look," Public Interest, no. 19 (Spring 1970): 89–90.

[44] Among the many economic analyses of the Kennedy tax cut are the following: Council of Economic Advisers, "Economic Report of the President, 1965" (Washington: U.S. Government Printing Office, 1965), pp. 65–66; Arthur M. Okun, "Measuring the Impact of the 1964 Tax Reduction," in Perspectives on Economic Growth, ed. Walter W. Heller (New York: Random House, 1968), pp. 25–49; Lawrence R. Klein, "Econometric Analysis of the Tax Cut of 1964," in The Brookings Model: Some Further Results, ed. James S. Duesenberry et al. (Chicago: Rand McNally, 1969), pp. 459–72; U.S. Congress, House Committee on the Budget, Joint Economic Committee, and Congressional Research Service, "Economic Stabilization Policies: The Historical Record, 1962–76," Joint Committee Print, 95th Cong., 1st sess. (Washington: U.S. Government Printing Office, 1978), pp. 6–9, 15–19, 70–91; and Victor A. Canto, Douglas Joines, and Robert Webb, "The Revenue Effects of the Kennedy Tax Cuts," in Foundations of Supply-Side Economics: Theory and Evidence, ed. Victor A. Canto, Douglas Joines, and Arthur Laffer (New York: Academic Press, 1983), pp. 72–103.

[45] Data are for the income tax only and are taken from Robert J. Barro and Chaipat Sahasakul, "Average Marginal Tax Rates from Social Security and the Individual Income Tax," Journal of Business 59, no. 4, part 1 (October 1986): 562–63.

[46] James D. Gwartney and Richard Stroup, "Marginal Tax Rates, Tax Avoidance, and the Reagan Tax Cut," in Supply-Side Economics in the 1980s: Conference Proceedings (Westport, Conn.: Quorum Books, 1982), pp. 197–209.

[47] "The Collected Writings of John Maynard Keynes, vol. 9, Essays in Persuasion" (London: Macmillan, 1972), p. 338.

[48] See White House, "A Program for Economic Recovery" (Washington: U.S. Government Printing Office, February 18, 1981), p. 7.

[49] Daniel R. Feenberg and James M. Poterba, "Income Inequality and the Incomes of Very High Income Taxpayers: Evidence from Tax Returns," Working Paper no. 4229, National Bureau of Economic Research, Washington, December 1992; Lawrence B. Lindsey, "The Growth Experiment" (New York: Basic Books, 1990); U.S. Congress, Joint Economic Committee, "Fairness and the Reagan Tax Cuts," 98th Cong., 2d sess. (Washington: U.S. Government Printing Office, 1984); and U.S. Congress, Joint Economic Committee, "Tax Reform, Tax Rates, and Tax Revenues," 99th Cong., 1st sess. (Washington: U.S. Government Printing Office, 1985).

[50] Even the Joint Committee on Taxation, which is controlled by the Democratic majority of Congress, has estimated much lower revenues from raising the top rate than has the Clinton Treasury. See David Rogers, "Revised Figures on Deficit Spur Search for Cuts," Wall Street Journal, March 4, 1993; and Eric Pianin and Steven Mufson, "Clinton Economic Plan Gains Support," Washington Post, March 4, 1993. See also Aldona Robbins and Gary Robbins, "Bill Clinton's Economic Plan," Policy Backgrounder no. 120, National Center for Policy Analysis, Dallas, 1992; and Republican Staff, Joint Economic Committee, "Putting People Out of Work: First—Year Growth and Employment Effects of the Clinton Economic Plan," August 1992, Mimeographed.

[51] Sylvia Nasar, "Tapping the Rich May Prove Tricky," New York Times, December 12, 1992; and Brett Fromson and John Mintz, "The Hitch in Taxing the Rich," Washington Post, November 29, 1992.

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CONSERVATION AT ANY COST: INCREASING EXCISE TAXES ON MOTOR FUELS

The Democrats on the Finance Committee are about to endorse a 4.3 cents per gallon increase in the federal excise taxes on gasoline and diesel fuels, and an extension of the 2.5 cents per gallon portion of the existing gasoline tax that was due to expire in October, 1995. These motor fuels tax hikes would reduce GDP by some $9 billion in 1994 and $16 billion by 1998. They would reduce employment by about 80,000 jobs in 1994 and 110,000 jobs in 1998.

The Committee hopes to raise about $7.6 billion per year from these gasoline and diesel provisions by the late 1990s. The reduced use of motor fuels would offset about 8% of the revenue the tax increases would otherwise generate (an amount that may have been factored into the revenue estimate prepared for the Finance Committee). Not accounted for in the Congressional estimates, however, is the fact that the reduced employment and GDP growth would reduce payroll and income taxes, offsetting roughly 30% of the expected are revenue form the motor fuels tax increases. The Committee would be lucky if the net revenues reached $5.5 billion per year. The GDP would fall by roughly three times the amount the tax would take in, making the fuel tax increase an extraordinarily inefficient way to raise revenue. There is no excuse for costing the private sector in excess of $20 billion in taxes and lost output when an equal amount of deficit reduction could be had by cutting government spending by abut $5.5 billion.

One reason that President Clinton gives for insisting on including some form of energy tax in his deficit reduction package is that it would encourage energy conservation. The conservationist justification for this tax increase invokes the paternalistic view that Americans use motor fuels in a wasteful manner.

Conservation is not simply a matter of not consuming. It concerns the optimum timing of production and consumption of exhaustible resources. At issue, therefore, is whether the private market costs up correct or misleading signals concerning present and future demand, current and future costs of production, and the costs of storage. Although they never state it in this manner, the excise tax advocates are arguing that oil companies and are charging too little for their product. This underpricing, so the argument goes, causes too much motor fuels to be consumed. The implication is that government can step in with an excise tax that would help establish the correct, i.e., higher, price.

The tax hike advocate presume that the government can know enough about other people's needs to be able to judge for them what level of consumption is wasteful. The corollary is that the government is more farsighted than market participants and could establish the appropriate consumption rate with higher taxes. This argument is based on what Nobel prize winning economist FA. Hayek has described as a "pretense of knowledge." In order to come to these conclusions and implement such policies the government would be have to "pretend" that it had information that it could not possibly possess. For example, just to know whether individuals are wasting motor fuels the government has to know the purposes for which individuals in society use the fuels and the relative importance that those individuals place on those purposes—obvioulsy an impossible task.

Beyond this, insurmountable informational problems are encountered in attempting to displace entrepreneurial decision-making with governmental decision-making in allocating resources over time. All motor fuels companies face the challenge of optimally timing production. In other words they must decide upon the correct rate at which resources should be depleted. These decisions depend on many factors, including interest rates, current and future production costs, current and expected future demand, the extent to which future discoveries of crude oil might add to reserves and at what cost, and the extent to which new technologies could bring forth substitutes for motor fuels.

Private entrepreneurs face strong incentives to make accurate estimates with regards to all of these factors. If they are wrong the long-run profitability and survival of their businesses will be threatened. But those conservationists who want increased motor fuels taxes are suggesting that producers systematically err in production decisions. Supposedly, the government can obtain better information than the market provides to entrepreneurs, and it can make better decisions about the allocation of motor fuels over time. This challenges credulity. Those who propose raising the motor fuels taxes should be required to prove that private markets fail to cast up correct cost and price data and that their proposal would result in a better rate of resource utilization.

The conservationist argument for new motor fuels taxes is even more incredible, given the terrible record that the government has in regulating motor fuels markets in the past. In the 1970's the government decided that gasoline was overpriced and put caps on both gasoline and crude oil prices. The result was severe shortages. The government then imposed rationing schemes that saw motorists in some parts of the country waiting in line for hours to fill up while other areas had surpluses of gasoline.

Higher taxes on motor fuels would cause new problems. First, it would result in additional misallocations in a market that is already distorted by federal and state taxes that average 34 cents per gallon. These taxes drive a wedge between the price paid by consumers and the price received by producers. Consumers pay a higher price than they would in the absence of the tax but sellers receive a lower price. So not only is consumption discouraged but so is production, bringing about a reduction in drilling for new oil. The likely outcome is smaller reserves in the future. Additional excise taxes on motor fuels would exacerbate these distortions.

Furthermore, this higher tax would increase transportation expenses for all businesses and households. This would result in higher production costs throughout the economy, with losses of output, employment, and income. The tax hike advocates need to explain why society should bear these costs in order to realize the reduction in motor fuels usage that they deem to be required.

Free markets do not encourage the overutilization of motor fuels. Since the late 1800's when petroleum products first became the dominant source of energy in this country private enterprise has done well in efficiently rationing its use. Major misallocations of oil and motor fuels have only occurred when the government has made a conscious attempt to alter the outcomes that have occurred as a result of free choices made by consumers and producers. More interference with market prices by imposing higher excise taxes on motor fuels would have similar misallocating effects.

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HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION,

Washington, DC, June 21, 1993.

Hon. LARRY CRAIG,
U.S. Senate, Washington, DC.

DEAR LARRY: Since our International Union opened an office here in the Nation's Capital 20 years ago, we have tried to be a progressive and positive force, operating perhaps just a little differently than most people would expect.

Working with both Houses of Congress and with members from both sides of the aisle, it has been a privilege to be directly involved with so many pieces of legislation which have had a major impact on the country, fashioning working groups on a bipartisan basis and establishing coalitions which reflect the broadest base of support possible. Seldom have we opposed legislation, usually working through the legislative process to solve our own unique problems so that we could always support final passage and help the leadership and the Administration move in a positive fashion for the overall benefit of the country.

Now, for the first time, we find ourselves in a dilemma. We must let you know that this International Union cannot support a bill which drops the business meal deductibility from 80 percent to 50 percent—a move which will cause a loss of 160,000 jobs for the industry and approximately 40,000 for our union.

Having done everything humanly possible to urge all of you to focus on the merits of the business meal deduction issue, it has been virtually impossible to move anyone away from the symbolic aspects which have plagued us since this issue first reared its ugly head in 1975. So, as two people who were born on the west side of Chicago, and to this day maintain the highest respect for our country, the Presidency, and the Congress, we have decided that we should ignore the fact sheets which conclusively support our arguments and instead speak to you from our hearts.

We need your help! Since 1987, the Hotel Employees and Restaurant Employees International Union (HEREIU) has lost 35,000 members. The actual figure is really 50–55,000, but we have made some positive strides in our organizing efforts, so the net loss of members from 1987 to the present is 35,000 (10–12 percent of our total membership). These figures are not from a study. they are from the actual membership rolls of the union. So please pardon our frustration when the Treasury Department, through its spokesperson Sam Sessions, says: Congress, don't worry—when the deductibility was lowered from 100 percent to 80 percent, in 1987, not one job was lost and not one penny was changed in consumer spending. Since we try not to be spurious in our representations to the Congress, and we acknowledge that there has been a sluggish economy and other mitigating factors, we are not alleging that our entire membership loss was due solely to dropping the business meal deductibility from 100 percent to 80 percent. But there remains one immutable fact—we have lost 35,000 members, and since we represent about 25 percent of the industry, the job loss since 1987 is obviously much higher. So much for the allegation that not one job was lost when the deductibility was lowered from 100 percent to 80 percent.

Contrary to Treasury's and Congressional Research Service's inane comments, a reduction in the deductibility of legitimate business meal and entertainment expense deductions from 80 percent to 50 percent will, in our judgment, result in a nationwide job loss of 150,000 to 165,000. Our membership would suffer a loss of approximately 25 percent of those jobs, or roughly 40,000 workers. Obviously, we can ill afford this.

Now, the same people in the Administration would have you believe that, in fact, there has been an increase in jobs in the food service industry. Well, there has been—in the fast food area. We believe that you would agree as an objective observer that McDonald's, Burger King, et al. are not really impacted by the business meal deductibility issue.

In many instances, the Administration has been confronted with the fact that the tourism industry, of which we are a part, is still today the largest employer of females and minorities in the country. Their response, direct from the White House, has been to ignore this fact and instead indicate that our kind of jobs are not important, and, in fact, we subjugate people to "dead-end careers". After all, they say, who wants to clean a room or wait on tables for a living. They will be retrained, as part of the President's empowerment program, to get high-paying jobs in high-tech and computer industries. While intellectual arrogance and elitism is one thing, denigrating an entire group of honest, decent, hard-working people is something we cannot let slip idly by. The Administration's attitude smacks of the notion that this is a "Harvard case study". You cannot ignore that you have real human beings, namely your constituents, whose lives and careers are threatened by this proposal.

So, it comes down to this. We have the highest regard for Majority Leader George Mitchell, Republican Leader Bob Dole, the Senate Finance Committee and its new Chairman, Senator Daniel Patrick Moynihan, and the entire Senate. We are not asking for or supporting any floor amendments. In our considered judgment, the Majority Leader, through the floor manager, will move to table all amendments, the votes will be procedural and partisan, and we have no chance in that mix. Thus, we are asking those whose states are most dramatically impacted in a negative way to vote against the bill. We are not against an economic package per se, but if the bill failed and the Finance Committee was asked to go back to the drawing board, the entire package could be re-worked.

We know we will be accused of being selfish. After all, you have asked, what about the revenue impact of your issue? We have to support the President's bill. My God, 15 billion dollars is the revenue estimate on the business meal issue. Chairman Rostenkowski, nobly supporting the President's package, dropped a little acorn off the table called the investment tax credit. How could that happen? Well, I don't remember one voice being raised about the revenue impact of that issue ($30 billion), or the President's package having to remain intact.

The Senate Finance Committee, through lengthy deliberations, realized the political problems of the B.T.U. tax and jettisoned it (a $72 billion item). Alternative measures were put in place but the major part of the President's program was discarded, with the consent of the White House.

Thus, the only major issue left intact, and the one the White House is actively lobbying to retain, is the business meal deduction. Why not balance the bill on the back of working people? The President can demagogue that it is a fat-cat lobbyist issue and big business issue. Forget about the loss of jobs.

We appreciate the difficulty of voting against the entire package. If you cannot do so, you should know that Chairman Moynihan was sincerely sympathetic enough to add a compliance provision to the business meal deductibility issue so that it can be addressed within the "scope" of the conference and not become technically nonconferenceable. If you could express your concern to the Majority Leader and the Chairman of the Senate Finance Committee that they need to fix this in conference or you will vote against the Conference Report or for a motion to recommit with instructions, we would be most grateful.

As always, we extend our hand to you in strength and friendship, not in weakness. Please help us preserve the jobs of thousands of American workers and preserve the vitality of the tourism industry. Together, let us forge ahead to develop programs which will truly improve the economy and provide jobs.

Your consideration and assistance will never be more appreciated.

Thank you.

Cordially,

EDWARD T. HANLEY.
ROBERT E. JULIANO.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, June 16, 1993.

EMPLOYMENT IMPACT OF REDUCING THE BUSINESS MEAL TAX DEDUCTION

The following is based on an analysis of the impact of reducing the business meal deduction from 80% to 50% as proposed in President Clinton's economic package. The estimated loss of jobs and sales is based on the assumption that spenders will maintain the same after-tax expenditures for business meals which would result in less business meal spending. Consumer surveys done by the National Restaurant Association show that most business meal spenders would reduce business meal activity despite the fact that they believe meals serve an important purpose in meeting their marketing and sales objectives.

1993 business meal market—$38,038,715,000.

Expenditures by nontaxable entities (nonprofits, governments, etc.)—$4,488,568,000.

Expenditures by taxable entities—$33,550,147,000.

Loss in sales for 1993—$3,764,163,000.

Loss in jobs—165,198.

Estimates prepared by Malcolm Knapp, Inc.

STATE-BY-STATE IMPACT OF LIMITING BUSINESS MEAL DEDUCTIBILITY FROM 80 TO 50 PERCENT, 1993

[Dollar amounts in thousands]

	Business meals	Amount loss	Job loss
United States	$38,038,715	$3,764,163	165,198
Alabama	407,804	40,363	1,771
Alaska	128,603	12,726	558
Arizona	645,775	63,892	2,804
Arkansas	215,932	21,371	937
California	5,229,231	517,508	22,711
Colorado	603,866	59,752	2,622
Connecticut	512,126	50,684	2,225
Delaware	104,289	10,321	453
D.C.	305,297	30,196	1,326
Florida	2,582,744	255,544	11,215
Georgia	1,006,916	99,641	4,373
Hawaii	624,574	61,775	2,711
Idaho	113,261	11,208	491
Illinois	1,616,834	160,003	7,022
Indiana	645,102	63,847	2,802
Iowa	299,363	29,628	1,301
Kansas	291,628	28,863	1,266
Kentucky	431,136	42,670	1,872
Louisiana	521,732	51,630	2,266
Maine	197,548	19,549	858
Maryland	671,253	66,433	2,916
Massachusetts	1,236,479	122,360	5,370
Michigan	1,116,589	110,512	4,850
Minnesota	629,350	62,279	2,733
Mississippi	206,613	20,448	897
Missouri	744,576	73,681	3,234
Montana	107,618	10,649	467
Nebraska	184,900	18,299	803
Nevada	1,056,688	104,453	4,584
New Hampshire	220,410	21,810	959
New Jersey	1,323,597	130,952	5,747
New Mexico	212,161	20,995	921
New York	2,623,115	259,583	11,392
North Carolina	893,049	88,388	3,879
North Dakota	78,170	7,735	340
Ohio	1,311,536	129,807	5,696
Oklahoma	361,642	35,789	1,573
Oregon	444,258	43,969	1,930

STATE-BY-STATE IMPACT OF LIMITING BUSINESS MEAL DEDUCTIBILITY FROM 80 TO 50 PERCENT, 1993—Continued

[Dollar amounts in thousands]

	Business meals	Amount loss	Job loss
Pennsylvania	1,551,378	153,517	6,737
Rhode Island	147,589	14,608	642
South Carolina	487,117	48,206	2,115
South Dakota	75,950	7,516	329
Tennessee	613,373	60,701	2,664
Texas	2,271,001	224,749	9,864
Utah	211,178	20,898	917
Vermont	121,630	12,033	528
Virginia	981,780	97,152	4,264
Washington	744,528	76,657	3,365
West Virginia	176,087	17,425	765
Wisconsin	639,713	63,313	2,779
Wyoming	81,625	8,075	354

Notes and Sources: To reach state-by-state estimates, U.S. totals were distributed as follows: Total dollar volume, dollar volume loss and job loss for lodging places were distributed based on state-by-state proportion of total meal and nonalcoholic beverage sales plus alcoholic beverage sales for 1987 from the "Census of Service Industries, Subject Series, Hotels, Motels and Other Lodging Places." Bureau of the Census. Total dollar volume, dollar volume loss and job for the remainder, excluding lodging places, were distributed based on state-by-state eating place sales estimates for 1993 from "National Restaurant Association 1993 Foodservice Industry Forecast". A detailed description of U.S. estimate is given in "Assessing the Impact of Limiting Business Meal Deductibility to 50 Percent." Dollar loss and job loss estimates for the U.S. are based on the assumption that business will maintain the same after tax expenditures at 50 percent deductibility as at 80 percent.

Mr. MACK. Mr. President, I would like to first of all thank my colleague Senator LIEBERMAN for his leadership in the continuing struggle to bring forth a viable enterprise zone program. It came as no surprise to me that the Democratic compromise which we are currently debating makes no mention of enterprise zones or empowerment zones as the administration likes to call them. It is ironic that the party that claims to stand up for the poor continues to ignore the policies most likely to be effective in helping the poor. Once again we see the Democratic leadership's willingness to squelch an initiative that seeks to help people in disadvantaged communities improve their lives and climb the economic ladder. They evidently prefer their temporary stopgap Government programs which only socialize continued poverty. However, I am not here to debate the ideological differences of my colleagues as it relates to assisting our urban or rural poor.

Despite this reluctance from the Democratic leadership, few domestic issues over the last decade have had more bipartisan support than the idea of enterprise zones. Yet we find ourselves today without an action plan on how we should implement Federal enterprise zones. There is disagreement on everything from the number of zones that should be created, to what kinds of tax incentives will do the best job at attracting investment to these economically distressed areas. We must also keep in mind that our ability to develop an aggressive enterprise zone program is hampered by the current budgetary scoring rules. I am convinced that enterprise zones will, in actuality, generate new tax revenues from the economic growth that would not otherwise occur.

Despite these obvious problems, I am optimistic that we can craft a bipartisan plan of action that will provide relief for many of our economically distressed areas in the form of enterprise zones.

But the President's plan of creating empowerment zones and enterprise communities is not the answer. It has several shortcomings. First of all, only 10 communities would receive the bulk of the assistance. This would leave out too many of the most seriously distressed communities in this country. In addition, these 10 empowerment zones would receive $3 billion of the $4 billion being provided in this package, or an astronomical $300 million per zone.

In addition, the President's plan provides a significant amount of its benefits in the form of labor cost relief, without providing any capital investment incentives. Although I support an employee wage credit, we must balance this stimulus with a stimulus to create capital. A capital gains tax cut for individuals who invest in these often risky businesses would not only be appropriate, but vital.

This amendment makes it clear that the Senate wants at least 75 enterprises zones, in lieu of the 10 empowerment zones included in the House version. In addition, this amendment would address the need for capital incentive to insure that a flow of private capital, as well as a flow of Government money, will reach our distressed communities.

INDIAN EMPLOYMENT INCENTIVES

Mr. PRESSLER. Mr. President, I rise in support of the McCain-Inouye-Domenici amendment and am proud to be a cosponsor. This amendment would create Indian employment and investment tax incentives which will help empower the Indian community.

The effectiveness of this amendment is in the fact that it targets the employment credit and investment tax credit where it can provide the greatest benefit. We need to focus on entrepreneurship and job creation on and around Indian reservations. There is tremendous unrealized potential on Indian reservations, and this proposal will help develop that potential.

I recently received a letter from the Cheyenne River Sioux Tribe from South Dakota. In their letter they voiced support for this amendment and criticized the administration's enterprise zone proposal because so few zones will be designated. I doubt South Dakota would receive the single Indian reservation enterprise zone if the administration's plan were enacted. I agree with this criticism and would add that the administration's proposal has other flaws, such as concentrating too many financial resources on each zone—some $300 million per zone.

The Senate passed this legislation last year, so I see no reason why we should not pass it again and start working hand-in-hand with Indian reservations in every State. Each federally recognized tribe in my home State of South Dakota would reap the benefits of this legislation.

Mr. President, I ask unanimous consent that the letter from the Cheyenne River Sioux Tribe be included in the RECORD at the conclusion of my remarks. I urge adoption of the amendment.

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

CHEYENNE RIVER SIOUX TRIBE,
Eagle Butte, SD, June 2, 1993.

Re support for Indian country tax incentives in 1993 tax bill.

Hon. LARRY PRESSLER,
Hart Senate Office Building,
Washington, DC.

Dear Senator: On behalf of the Cheyenne River Sioux Tribe in South Dakota, I request your support for including the 1993 tax legislation the identical Indian Employment and Investment Tax Incentives that Congress last year passed as Sections 1131 and 1132 of H.R. 11, the vetoed tax bill.

In 1993, the Senate Finance Committee can improve the current tax legislation by substituting the Indian country tax incentives in place of the pending proposal to establish only 1 Indian empowerment zone and 5 Indian enterprise communities. In so doing, the Committee would replace provisions that might possibly help just 6 tribes, with meaningful tax incentives that can help all reservations and that are widely supported by Indian country. (This was the same course taken by the Senate in 1992, when it added these incentives to H.R. 11 by substituting them in lieu of the then-pending proposal to establish just ten Indian enterprise zones.)

The average Indian reservation unemployment rate is 56% nationwide. (Our unemployment rate on the Cheyenne River reservation is 86%.) Under those circumstances, these urgently-needed Indian Employment and Investment Act Incentives cannot properly be viewed as either a partisan issue or a special interest issue, but a human issue deserving of bipartisan support.

It is our understanding that Senator Baucus is taking the lead in working with the Finance Committee in support of the Indian country tax incentives as preferred alternative to the pending Indian empowerment/enterprise zone proposal. The Cheyenne River Sioux Tribe respectfully requests that you actively support those efforts during Committee deliberations. In addition, we have contacted Chairman Moynihan and request that you contact him as well.

Hopefully, with your help, the senate can again provide the leadership to craft a legislative response that fits Indian country's unique circumstances. Please help to perfect the pending tax proposal by replacing the very limited empowerment/enterprise zone approach with the Indian Employment and Investment Tax Incentives—innovative tools that can potentially help all Indian tribes, including those in our State.

Sincerely,

GREGG J. BOURLAND,
Chairman, Cheyenne River Sioux Tribe.

INFORMATION REPORTING SYSTEM

Mr. LIEBERMAN. Mr. President, one of the provisions of the reconciliation bill calls for the IRS to develop an information reporting system for service industry companies. The concern is

that corporate compliance in reporting income has declined over the years, and that this is particularly a problem in the service industry. I applaud this effort to assure that everyone carry their fair share of the load, and I encourage the IRS to look for innovative ways to collect taxes on unreported income. However, I would like to issue one caution. While this is a laudable problem, the way the regulations are written can make this tremendously burdensome, or can minimize the burden and make a workable system.

Let me first urge the IRS to make any regulations on this issue clear and readily understandable to those among us who are not tax lawyers. we must begin to write regulations that make sense to the average American. For it is usually the average American who has to comply with those regulations.

Second, the IRS should consider carefully which companies need to receive these information forms, and write the regulations accordingly. For example, the IRS should incorporate present exemptions contained in the law, exempting companies paid by employees on expense reimbursements, certain regulated industries—such as telephone companies, electric gas and water utilities, and banks and financial institutions—and certain transportation businesses such as airlines. Also exempted from this program should be those large corporations which are continually under IRS audit.

Third, there should be no enforcement of this program until preliminary regulations have been issued, commended on, revised, published, and distributed. and even then, enforcement through penalties should be used as a last resort for those avoiding compliance, not on those showing a good faith effort to comply.

Finally, I urge the IRS in the regulation process to listen carefully to the concerns of those who will have to comply with this program. The concerns they have, if real, should be addressed. The fears they have should be allayed.

SENSE OF THE SENATE RESOLUTION ON ENTERPRISE ZONES

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I am pleased to be joined in offering this amendment by Senators DORGAN, PRESSLER, WOFFORD, MACK, LOTT, SIMON, DODD, KERRY, and COATS.

Mr. President, after more than a decade of debate, I rise today to offer a sense of the Senate resolution urging the Congress to finally adopt Federal enterprise zone legislation. I offer this amendment after more than 12 years of neglect of our urban centers; after last year's riots in Los Angeles that brought urban policy to the top of the congressional agenda; after three successful times passing the Senate—once in 1982, again in 1984, and most recently in 1992; and after enterprise zones were most recently dropped from the Senate's version of the budget reconciliation package. This provision was dropped despite the fact that a $5.1 billion program was included in the House bill, and that President Clinton has made enactment of this program a priority.

Mr. President, if there is any one point on which we can all agree, it is that the desperate conditions which exist in too many of America's inner cities—the crime, the poverty, the drugs, the unemployment, and the homelessness—have gone on for far too long.

I believe that enterprise zones offer us an opportunity to break this cycle of decay by directly countering the one most important cause of urban decline—namely, the reduction of business activity, and therefore, investment, and jobs.

We have now had more than 10 years worth of experience with enterprise zones and we know they work. At the State level, 36 States have adopted enterprise zone programs. I am proud to say that the State of Connecticut led the Nation in establishing enterprise zones in 1982, offering a wide range of State and local incentives, as well as administrative support to help develop distressed urban areas.

In total, according to the 36 State economic development offices, enterprise zones have created more than 250,000 jobs and have attracted more than $28 billion in capital investments. This has all been obtained without Federal incentives, which are critical to the maximum possible enterprise zone success.

The State experience provides evidence that, if properly designed, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

That is why—among many others—enterprise zones have been endorsed by the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors. These organizations have called for the adoption of enterprise zones across the country.

But, Mr. President, this amendment not only urges the Senate, in essence, to yield to the House in conference and to finally pass an enterprise zone program, it sets some fundamental benchmarks on how this program should work. I want to go through some of my concerns with both the House and the administration's proposal to urge the conferences on the reconciliation bill to make some modifications in conference.

NUMBER OF ZONES

To begin, Mr. President, the administration's proposal calls for only 10 urban and rural communities around the country to be designated as enterprise—empowerment—zones. Of the 10 zones, 6 will be designated in urban areas; 3 will be designated in rural areas; and 1 will be designated on Indian reservations.

While the President's proposal does purport to create 100 enterprise communities and 10 "empowerment zones", the 100 cannot really be characterized as enterprise zones and do not get a package of incentives that would make enterprise zones work.

This is not an adequate response to the crisis in our urban areas and rural communities. In fact, it guarantees that the vast majority of distressed areas in this Nation will have no chance of being designated an enterprise zone.

Under the administration's proposal my State, which has three of the poorest cities in the country, and has had a number of successful and proven enterprise zones for a decade, will have no chance of getting even one real enterprise zone. We would have to compete among many hundreds of applications. Other States have the same problem. In fact there are hundreds of metropolitan cities which are in need of our assistance—only 10 of which will receive enterprise zone designation under the administration proposal. This amendment says that we create a minimum of 75 full enterprise zones with a full array of incentives and programs.

Second, Mr. President, the administration proposal will provide these 10 enterprise zones with approximately $3.2 billion worth of incentives over the next 5 years. Assuming equal distribution of the incentives, this proposal provides $320 million worth of tax benefits to each enterprise zone. Frankly this is too rich a subsidy per zone. Enterprise zones are not going to attract major existing employers, they are going to attract start up and small businesses. The $320 million per zone simply can't be utilized by those kinds of firms. In fact, it is highly unlikely, based on the experience of the State programs, that anywhere near this level of tax subsidy is necessary. The key to the enterprise program is the ability to use limited Federal tax dollars to leverage private capital. You do not need $320 million per zone to achieve this. A more carefully targeted amount spread to a larger number of zones is going to achieve a better result.

The administration has suggested that their program is designed with

this level of generosity—and with this limited number of zones—in order to test the enterprise zone concept. But, as I have said and still believe, enterprise zones have already been thoroughly tested in 36 States and in more than 2,200 communities since 1982. And, they have been successful. We know what works and we know what doesn't. There have been 56—56—enterprise zone bills introduced in Congress over the last 12 years. There have been dozens upon dozens of hearings in both the House and Senate. The Senate has passed this program three times—once in 1982, again in 1984, and again just last year under the leadership of now-Secretary Bentsen.

According to the American Association of Enterprise Zones, in a letter sent to President Bush last year, "Never in the history of domestic policy making have literally hundreds of cities demonstrated the principles of a Federal program before Congress has authorized its full operation. We are confident that we understand the way enterprise zones perform; thus we can confidently urge Congress to implement the Federal policy in more than a handful of communities."

It is important to note that enterprise zones do not represent a radical departure from traditional, long practiced, and accepted economic development activities. From the State and local perspective, the notion of using incentives to attract business, development, investment, and jobs is not new. Democrats and Republicans—liberals and conservatives—have all embraced this concept. Enterprise zones represent a slightly different spin on traditional State economic development activities by targeting incentives specifically to smaller economically distressed areas.

Mr. President, I think it is also important to note the precedent problem the administration is setting with this proposal. When we eventually come to the determination that this program is indeed successful—as we surely will—it will cost us enormous sums of money to expand the program to all eligible areas without creating serious inequities. For example, under the administration proposal it will cost us an additional $30 billion to expand this program to an additional 100 communities among the 1,000 that probably need it.

INCENTIVES

Finally, Mr. President, let me address the issue of incentives. In my opinion, the objective of the enterprise zone program is to use tax incentives—and other forms of public policy—to direct investment and employment opportunities to distressed urban and rural areas that would overwise not occur. The increased investment and employment, spurred by the package of incentives should promote the revitalization, over time, of these distressed areas. Therefore in order for the program to achieve its desired results, the package of incentives, including State and local incentives, must be of a strong enough and practical enough nature to attract the necessary business and investment activity. The package of incentives must also reduce capital as well as labor costs to a sufficient level that a firm would be willing to forgo other factors that impact location decisions including access to markets, quality infrastructure, efficient transportation, a skilled labor force, quality of life, and security.

I cannot stress enough the importance of capital incentives. They must be a component of any program and should be targeted toward small businesses. They should encourage equity over debt. And, they should be focused on seed capital and cash-flow—two of the most common barriers to small business creation. Labor incentives alone will not be sufficient to attract business investment. While there are some capital incentives in the administration's plan—aimed largely at the acquisition of tangible assets—they do not adequately address the problems of access to capital.

These capital incentives are also important because they allow the Government to leverage limited resources and tap the vast resources of private investment capital, not to mention the benefit of attracting this capital into some of America's poorest communities. This provides a multiplier effect for Federal tax dollars and pays dividends to the community in terms of additional sources of tax revenue. This is in stark contrast to direct public spending programs which rarely pay dividends beyond there intended purpose.

On the labor incentive side, if the objective is to encourage employers to hire new employees from within zones, there appears to be limited utility to the key element in the proposal. Unless the employer credit is designed to be refundable, few small firms have the level of tax liability required in the administration proposal to take advantage of a $5,000 tax credit per employee.

CONCLUSION

Mr. President, it is time to do something substantial on a national scale about urban decay and chronic unemployment. Unemployment and decay that not only encompasses whole sections of every one of our inner cities and so many of our rural areas but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, and the places where they live are in need of our help and they all deserve our help.

Mr. BRADLEY. Mr. President, my constituents want to know why I am supporting this deficit reduction plan. They deserve a straight answer.

For 12 years, with the complicity of both major political parties, we had fundamentally dishonest government in this country. That is a harsh statement, but I believe it is a statement justified by the record.

I'm not going to spend a lot of time rehashing the Reagan-Bush years or trying to assign blame for the deficit. Members of both political parties participated in these economic policies back in 1981, and members of both political parties spent the following 12 years in a conspiracy of silence about the devastating result of those 1981 votes—the gigantic debt we've laid on this country.

In 1981, I was one of only six Senators who voted for the Reagan spending cuts but against the Reagan tax cuts. In making the votes, I told New Jerseyans that I felt the result of trickle-down economics would be "little or no relief from inflation, and the budget deficit will grow out of control." By 1985, we had created a Tax Code so riddled with breaks for narrow interests that Americans no longer believed in the fairness of our system or raising revenue. For that reason, I worked for the 1986 Tax Reform Act. That bill eliminated over $190 billion of tax breaks for special interests in order to replace a tax system with 14 brackets and a 50 percent top rate with a system of 2 tax brackets and a 28 percent top rate. Middle-class income taxes were cut by 8 percent, and 6 million of the working poor were taken off of the rolls. In 1990, I opposed the budget act, because it raised taxes on middle-income families in order to give away new tax breaks for wealthy investors. I also felt that the spending cuts planned in that bill would simply not materialize.

Last year, voters in this country voted overwhelmingly for change. There was no clear mandate for any specific set of policies, but between Bill Clinton and Ross Perot nearly 60 percent of the people of New Jersey said they'd had enough. They'd had enough of pretending that things were OK when they were not, and they demanded that we start dealing with the big problems.

Our national debt is $4 trillion. That's a big number, a big debt, and a big problem. I challenge you to find a problem any bigger than $4 trillion in debt. It's enough to pay Michael Jordan's salary for 1.3 million years. And that debt belongs to everybody in this country—$13,700 a person.

I believe that creating economic growth and high paying jobs is the No. 1 economic challenge facing our Nation. The first indispensable step in that process is to reduce the deficit. There is no economic stimulus package, no job program, no tax incentive for industry, that will mean more in the long run for getting our economy growing and back on track than reducing the deficit and our debt.

The deficit reduction package before us is not the magic bullet that overnight makes the problem go away. There is no miracle drug to cure this illness immediately. Indeed, even after $500 billion in deficit reduction the national debt will go up $900 billion in the next 5 years. This package is a first step only, and we have a long way to go.

The bill is the largest part of an over $500 billion deficit reduction package, half coming from spending cuts and half coming from taxes. The deficit reduction is this bill asks for everyone's participation in our national effort to reduce the debt—Federal workers, seniors, doctors, middle-class families, and the most well off in our society. But not everyone participates at the same level—80 percent of the taxes fall on people with over $100,000 in income.

This is an easy bill to oppose, and a tough bill to support. I don't want to raise our taxes—I've spent much of my Senate career trying to cut taxes by getting rid of special interest tax breaks. But I won't insult your intelligence by pretending that we can get real deficit reduction in this country without both spending cuts and tax increases. The spending cuts are going to hurt, and we're going to feel the taxes, but those who oppose this package must offer an alternative with the same amount of deficit reduction, or be suitably rejected by voters who are tired of politicians assigning blame and passing the buck.

This is not a perfect package. It's real deficit reduction, but as I said, we'll have to do more. We got rid of some of the tax loopholes, but not all of them.

We need more spending reductions, and I'm going to work on cuts over and above what the President requested and the Congress authorized. I think it's only fair that, if we ask for more of your money for deficit reduction, it goes for deficit reduction and not wasteful spending. That's why I want a deficit reduction trust fund.

So I support this package. It begins the process of deficit reduction. Keep in mind that those who say "I want deficit reduction but just not this package" or "we should only cut spending" or "It's not fair to my region" are taking a pass on deficit reduction, practicing the politics of sound bites and pollsters, the something-for-nothing politics that created our deficit problem.

Altogether, 1.8 percent of New Jersey taxpayers will pay more in income tax. Those who have more should pay more in order to reduce the deficit. To vote against the package requires you to explain why you think they should not.

All of the political posturing in the world won't cut the deficit. Only tough choices—and tough votes—are going to get us going in the right direction again. You may not agree with the vote, but I hope you'll understand the consequences of not casting it.

Mr. DORGAN. Mr. President, I am a cosponsor of the Bradley Line-item Veto bill. I support it, but I do not believe it is appropriate to waive the budget act restrictions to consider it on the budget reconciliation bill. I voted on a procedural motion to refuse to waive the restriction in the budget act, but I want to be clear that I intend to vote for the Bradley bill when it is considered on its own merits in the U.S. Senate in the months ahead.

TAX FAIRNESS AND JOBS FOR AMERICANS IN PUERTO RICO

Mr. D'AMATO. Mr. President, this plan raises taxes on all Americans, especially those who can least afford it, Americans in Puerto Rico. If section 936 is repealed as the House proposes, the people of Puerto Rico will be burdened with a tax increase that would cost $7 billion or $2,000 per person. The House plan will throw tens of thousands of Americans out of work. In the Senate, a more reasonable plan with a balanced wage and income credit has been proposed. The tax increase in the Senate version would cost Puerto Rico $3.8 billion or $1,000 per person.

Americans in Puerto Rico are willing to pay their fair share of taxes to reduce the deficit. A move away from the Senate package and toward the House version will prove devastating to the national economy, and even more damaging to Puerto Rico's economy.

The 936 tax credit is the backbone of the Puerto Rican economy which is already hurting with an unemployment rate of 18 percent. Section 936 is the critical incentive that brings all forms of manufacturing, financial, and investment services to Puerto Rico.

Section 936 supports 105,000 jobs directly and thousands of jobs indirectly. It accounts for 70 percent of the manufacturing jobs and 11 percent of the island's total employment. A significant portion of manufacturing and other jobs will be lost if taxes are increased.

A strong and prosperous Puerto Rico is essential to a strong and prosperous America—the two are inextricably intertwined. Simply stated, we will destroy American companies and wipe out American jobs if we allow section 936 to be repealed.

Puerto Ricans are willing to do their fair share, and they are ready to help the President achieve his goals, but the burden they are being asked to bear is disproportionate and unfair.

We cannot sacrifice the tens of thousands of workers and their families who depend on section 936 for their livelihood, for a small amount of revenue which will not be used for the deficit, but will be used for more spending.

We should be creating jobs, not eliminating jobs. We should be cutting taxes on Americans, not increasing them, especially when we know the money raised will only go for more spending. Raising taxes is not the answer. Cutting spending is. And if we cut spending we won't have to raise taxes.

Most importantly we cannot raise taxes that cost Americans tens of thousands of jobs. That is just wrong.

SUPPORT FOR SMALL BUSINESS TAX FAIRNESS

Mr. D'AMATO. Mr. President, today I rise in support of tax fairness for the small business men and women of America. They are the backbone of our country. They create and sustain our Nation's job base. They are truly the engine of prosperity. Small companies are the testing and proving grounds for new ideas and technologies that have been America's greatest strength.

The reconciliation plan before us raises $55 billion on the backs of small businesses. The plan has within it something that, if enacted, will destroy small businesses throughout the country. The plan proposes to increase tax rates on small businesses by up to 37 percent, that is, proprietorships, partnerships, or subchapter S corporations. This is a tax rate increase from the current 31 to 42.5 percent. In contrast, the tax rate on corporations will increase from 34 to only 35 percent. That means a mom and pop store will be subject to a higher tax rate than General Electric. That is not tax fairness.

This doesn't make sense when you consider that during the 1980's, it was the entrepreneurial business that created 88 percent of the new jobs nationwide. The small businesses created 17 million new jobs while Fortune 500 companies lost 3.1 million jobs. Under this plan the small business, the engine of economic growth will be stalled.

Of the Nation's 22.8 million businesses, 20 million operate as small businesses. In New York State alone there are an estimated 650,000 small businesses employing approximately 3.4 million people. Whether in New York or nationwide, small businesses employ over half of this country's workforce and contribute 40 percent to the Nation's GNP.

Our country has always recognized and held a special place for hard working store owners, shop keepers, small manufacturers, and professional people and the role they have played in the growth of America. Taxing small businesses is a direct attack upon those who have made this country great: the independent, productive, entrepreneurial Americans who operate our Nation's small businesses and who create the jobs that put Americans to work. Clinton's plan penalizes the success of these small business men and women and it will cost millions of lost jobs to our already beleaguered economy.

Bigger government and more taxes will not create prosperity. Never before in the history of this country has increasing taxes created jobs. Governments don't create jobs, the private sector creates jobs. The luxury tax of 1990 made that very clear. Bill Clinton

did not learn because Bill Clinton is allowing history to repeat itself. He will do to small business what the luxury tax did to the boating, airline, jewelry, fur, and auto industry. It threw thousands upon thousands of middle class, blue collar workers out of their jobs.

Mr. President, I opposed the luxury tax and the tax the rich rhetoric then and I oppose this tax the rich anti-small business approach now. I will not stand by and be silent while some allow history to repeat itself. Millions of good, decent Americans will be thrown out of work if this plan is enacted.

Mr. President, we need small businesses for job creation and for economic recovery. Without the small business there will be no economic recovery.

Mr. D'AMATO. Mr. President, during last fall's Presidential campaign, candidate Bill Clinton told the American people that he was going to put people first. He told the American people that he would honor the values that make America great by providing opportunity, taking responsibility and rewarding work.

He promised the middle class a tax cut. He told the people that he was going to cut spending, put America to work and give her back to her people. Mr. President, I want to help Bill Clinton keep his promises. We should cut wasteful spending and help the economy to grow by preserving and creating new jobs.

But as I stand before you today, focused on the economy, all I can tell you is that the choice that the Senate and House reconciliation plans give us is no choice at all. They do not represent real deficit reduction. They are a continuation of the same old tax and spend practices that have plagued our country for decades and that have left us with today's deficit of $300 billion. Eighty-six percent—$291 billion—of so-call deficit reduction in the House and 72 percent—$264 billion—in the Senate is in the form of new taxes.

The House passed tax plan raises taxes $6.35 for every $1.00 in spending cuts over 5 years. The Senate passed tax plan raises taxes $3.18 for every $1.00 in spending cuts over the same period. Since they raise taxes immediately and delay most of the spending cuts until the last 2 years, the ratio is even more frightening if taken year by year. In fiscal year 1994, the House bill increases taxes by $35 billion and cuts spending by less than $2 billion. That is a ratio of $20.70 in tax increases to every $1 in spending cuts.

The Senate Democratic leadership claim that the Senate package will reduce the deficit by $508 billion and that 50 percent of the deficit reduction in the Senate plan comes from spending cuts. They say that spending cuts account for $260 billion in deficit reduction. But, if you take away the smoke and mirrors, you find that $184 billion of the $260 billion does not represent spending cuts at all. You find that spending cuts account for only 14 percent of deficit reduction, not 50 percent. The $184 billion sham includes the following:

Seventy billion dollars in future, promised spending cuts. These cuts are not in this package and there is no enforcement mechanism to ensure they will ever occur as part of future appropriation processes.

Forty four billion dollars in savings was part of the 1990 budget agreement. These savings have already been counted once and the American people have already paid the taxes for these savings.

Fifteen billion dollars in user fees. These are not spending cuts, they are tax increases.

Fifty-five billion dollars in interest savings is claimed as a spending cut. Interest savings are not cuts. Interest savings are proportionate to the level of taxes and spending cuts in the bill.

With or without the Democratic tax plan, the U.S. budget deficit will continue to soar. Sure, initially you will hear that the deficit goes down, and it does. That is thanks to new revenues from massive new tax increases. But, after a few years, the deficit goes right back up again. It does so because there is no real structural change in the way government operates. Tax increases are used as a substitute for spending cuts and entitlements are not brought under control.

The American people have given us a clear message. They want us to cut spending and reduce the deficit. A ratio of 6 to 1 or even 3 to 1 does not reflect his commitment to cut spending and reduce the deficit. The House plan which creates three new entitlement programs does not reflect that commitment either, that is, health care for illegal aliens, immunizations, and Medicare expansion. It merely reflects a tax and spend philosophy and the desire to grow government at the expense of her people.

This government expansion philosophy will impede job creation and small business expansion and creation. The very backbone of America is the small business men and women. They create the jobs. They are truly the engine of economic prosperity. They are part of the American dream.

Bigger government and more taxes does not create prosperity. Never before in the history of this country has increasing taxes created jobs. Governments don't create jobs, the private sector creates jobs. The luxury tax of 1990 made that very clear. This tax plan will do to small business what the luxury tax did to the boating, airline, jewelry, fur, and auto industry. It threw thousands upon thousands of middle-class, blue collar workers out of their jobs.

The Democratic tax plan proposes to increase tax rates on small businesses by up to 37 percent. The tax rate will increase from 31 percent to a high of 42.5 percent. In contrast, the tax rate on corporations will increase from 34 to 35 percent. The Clinton plan also increases the capital gains tax, thereby, further restricting the amount of money that can be reinvested in a company or used to create jobs. This is ridiculous when you consider that during the 1980's small businesses created 17 million new jobs while the big corporations lost 3.1 million jobs. Whether in New York or nationwide, small businesses employ over half of this country's work force.

Mr. President, in closing, each generation has the obligation to pass on to the next generation the dreams and opportunities that were presented to them. Our Democratic leaders in Washington have no right to steal the dreams from today's young people and from future generations. They do not have the right to doom future generations to hopeless debt. They do not have the right to take away jobs and prosperity. They just don't have the right. They do have the responsibility to address today's problems head-on. Those problems are obvious. Government is too big and spends too much.

Raising taxes is not the answer. Cutting spending is. We must cut spending and we must do it now. For today's generations and for our future generations.

BUDGET RECONCILIATION BILL

Mr. HATCH. Mr. President, I rise today to express my strong opposition to the bill before us today and to let my constituents and my colleagues know my views as to why this bill should be rejected.

If the Senate passes this bill today, it will mark another tragic step down a path of misguided policy decisions that is leading this great Nation toward fiscal deterioration. I deeply regret this, and I regret the partisanship that has marked this year's entire budget process. The entire process has been carried out by the administration and by the majority side in both Houses of Congress without any consultation with this side of the aisle. It is obvious that there are many in the majority who have serious reservations about this bill but are going along only for the sake of party unity.

I think we have missed an historic opportunity, Mr. President, to forge the kind of deficit reduction package that could lead this Nation out of its perilous deficit crisis to long term financial security. To be successful, though, such an effort must be a bipartisan one. That chance was missed when the President decided early on to cut the Republicans out of the process. The result has been predictable and tragic.

I and my Republican colleagues are just as concerned about reducing the deficit as are those on the majority

side. It is true that many of our solutions are different than those proposed by the President, but there has been no serious attempt to address our concerns in this entire process.

The Senate has attempted to improve this budget bill since it left the House of Representatives. But, unfortunately, Mr. President, the basic ingredients of this bill are still badly flawed. First of all, the mix of spending cuts and tax increases is simply not acceptable—to me or to the taxpayers of Utah. The one thing I hear again and again in talking to the folks at home is that they are willing to pay more in taxes, if necessary, to cut the deficit, but only after spending has been cut as much as possible. And, they certainly are not willing to pay more taxes to finance new spending.

The bill before us reflects a better ratio of spending cuts to tax increases than does the House-passed bill. Frankly, this modest improvement was necessary to even get the bill passed in the Senate. But we are still raising taxes far too much and cutting spending far too little in this bill. And the results will be opposite from what is intended.

One of the major problems with the heavy reliance on tax increases in this bill, Mr. President, is the negative effect they will have on the job creating capabilities of our economy. By throwing hundreds of billions of dollars in new taxes on America's employers, we are making it almost impossible for the engine of job growth to run on all its cylinders—and the engine has been sputtering for months already in anticipation of these tax hikes.

Frankly, I am getting a little weary of this worn-out let's-tax-the-rich mantra. Under this bill, if you drive a car, you must be rich. If you are a senior citizen who saved for retirement, guess what? You're rich. If you are married, you must be rich, because this bill takes a Tax Code that already unfairly places penalties on marriage, and makes them worse. It is time we were honest with the American people. This bill will tax everyone.

High marginal tax rates discourage work, savings, investment, and risk-taking. Taxes aimed at the so-called wealthy always end up hitting the working man and woman.

Moreover, Mr. President, it is highly unlikely that the revenue expected from these tax rate increases will ever materialize. Some noted economists have warned us that individuals facing these higher rates will take action to avoid paying more tax by shifting investments and by working and risking less. Like with the ill-fated luxury taxes of 1990, the Treasury will realize far less revenue in the real world than on the paper estimates before us.

I fear that, like with the infamous 1990 budget deal, we will look back on this legislation with regret because it just simply will not be effective in cutting the deficit. If any of my majority colleagues doubt this, they should recall that George Bush said that the 1990 agreement was his worst mistake.

I would like to outline, Mr. President, some of the specific reasons why the bill before us will not be effective and should be rejected.

REASON NO. 1: TOO HEAVY ON TAXES—TOO LIGHT ON SPENDING CUTS

When then Governor Clinton was campaigning for the Presidency last year, he set forth his plan of deficit reduction using $3 of spending cuts to every $1 in tax increases. This, of course, helped to get him elected because the American people clearly want deficit reduction to come first from spending cuts and second from tax increases.

By Inauguration Day, the President's tune had changed so that he was then advocating $2 of spending cuts to every $1 in tax increases. In February's State of the Union Address, the ratio had changed to $1 in spending cuts to $1 in tax increases. Unfortunately, Mr. President, the budget proposal submitted by the administration did not reflect that same ratio. Instead, it showed $4 of tax increases to every $1 in spending cuts, more than just the opposite the President started with. The House-passed version of budget reconciliation made it even worse—$6.35 in tax increases to every $1 in spending reduction.

Senate Democrats have recognized, to an extent, that the House-passed bill just could not be justified and now the bill before us has an improved ratio of $3.18 in tax increases to every $1 in spending cuts. Although this represents a good step toward the right direction, it is still not sufficient, Mr. President.

The administration has clearly stated that its goal is to increase taxes so it can increase spending. My view, and the view of my constituents, is that this is like going on an eating binge before going on a diet. Mr. President, Utahns would rather forego this new spending so we don't have to raise the taxes.

This deficit reduction legislation should cut spending without adding tax increases that will only put the economy in further jeopardy. The economy, if allowed to grow without the restraint of additional taxes, will deliver plenty of new revenue each year to cover added spending needs.

In the years from 1983 to 1990, Federal revenues increased an average of $62 billion per year. At the same time, our economy created 18 million new jobs. While it is true that our deficits increased during this time, the reason is clearly because spending was out of control.

Even without tax increases, Federal receipts are projected to increase by an average of $72 billion each year. To cut the deficit, we need to protect the vibrancy of our economy by passing growth incentives, not punish it by adding oppressive new taxes. The U.S. economy can be the goose that lays the golden egg, if we feed it and nurture it. Let's not kill it by choking it with all of these taxes.

REASON NO. 2: THE TRANSPORTATION FUELS TAX IS COUNTERPRODUCTIVE AND UNFAIR

While I am pleased, Mr. President, that the Senate chose not to include the ill-conceived energy tax on Btu's that the House bill featured, the 4.3 cent a gallon transportation tax is not a good replacement. A tax on transportation fuels is little more than a fancy name for a gasoline tax. And a gasoline tax has several major problems, not the least of which is that it discriminates against geographically large and rural States like Utah.

Why should Utahns and other westerners shoulder more of the burden of deficit reduction than those in other States? People in States like Utah must drive farther to work, to school, and to the grocery store.

Proponents of this idea feel that a tax on transportation fuels is better than a Btu tax because it exempts manufacturers and farmers from higher production costs. This is inaccurate, Mr. President. There is not a product made or bought in America that doesn't have an element of transportation cost in it. Often, transportation is one of the most significant factors in the total cost of products.

Nearly every business in America relies heavily on transportation to deliver its products or services to the consumer. To say that shifting the tax from the Btu content of fuels to a tax on transportation fuels takes care of the concerns of this country's business and production sectors is misrepresentation.

Every single product you can name is brought to the consumer by either truck, train, ship, or airplane—often a combination of these. Transportation companies will pass on the added costs of this tax to increase the price of every product in the land. In cases where the costs cannot be passed on, job losses will result.

If ever there were a sure-fire prescription for added inflation, this tax is it. The increased cost of every product and service will increase the consumer price index, resulting in higher mandatory Federal spending outlays and thus reducing the deficit reduction potential of the tax hike.

The overall macroeconomic effects of a 4.3 cent per gallon increase will certainly be very harmful, and while perhaps not as damaging overall as the Btu tax, it would be more concentrated in its effect on certain economic sectors and on regions of the Nation.

A 1991 study on the gasoline tax by the minority staff of the Joint Economic Committee demonstrates that each 5-cent-per-gallon increase in the

tax would eliminate over 637,000 jobs over 5 years. And this is from the gasoline portion of the proposal alone.

It is ironic that the proponents of this bill talk about how its so-called progressive features will restore tax fairness to our tax code. A transportation fuels tax is one of the most regressive taxes imaginable. The poor spend a much higher percentage of their incomes on these necessities than do those with higher incomes. In fact, based on 1989 consumption patterns, gasoline and oil purchases amounted to 8.1 percent of the before-tax income of the lowest fifth of households, but only 2.1 percent of the income of the top fifth of households, based on income. In other words, the gasoline share of the household budget is four times as large for the bottom quintile as for the top quintile.

We may as well put a Federal tax on food, Mr. President.

These regressive features of the gasoline tax are only made worse in rural western and southern States, where there are a disproportionately larger number of low income families that must drive more miles each year.

It is also ironic that a tax on fuel should be proposed at the same time a Government commission is studying ways to help the struggling U.S. airline industry survive. Jet fuel, of course, is one of the largest costs that our airlines face—and one that cannot be passed on and must be paid whether the airline is making money or not. Hitting airlines with a tax on jet fuel at a time that many carriers are either in bankruptcy or fighting to stay out of it is particularly foolish.

Again, Mr. President, we all want to reduce the deficit. But the last thing we can afford to do is to weaken our economy with new taxes. We should instead be focusing on ways to create jobs, to strengthen economic growth. This will increase the tax base, lower unemployment and welfare outlays, and do far more to increase revenues to the Treasury than will these tax ideas.

REASON NO. 3: INCREASED TAXES ON SOCIAL SECURITY BENEFITS RAISE MARGINAL TAX RATES UNCONSCIONABLY AND UNFAIRLY HIT THE ELDERLY

Mr. President, when telling the American people about his economic plan this past February, President Clinton said that this proposed income tax increase would only affect those with adjusted gross incomes above $100,000, and that only 1.2 percent of American families would see their income taxes increase.

However, the proposal to tax 85 percent of Social Security benefits would increase the taxes paid by senior American individuals earning as little as $32,000 a year and by couples earning only $40,000 a year. This is a fraction of the $100,000 figure he quoted during his State of the Union Address—not to mention the $200,000 figure he cited during last year's campaign.

This tax increase will affect millions of our senior citizens who receive Social Security benefits and, since the income thresholds are not indexed for inflation, the number of seniors affected by the proposal will increase simply because inflation will bring their taxable income to higher levels.

Mr. President, increasing the portion of benefits subject to tax will increase the marginal tax rate for middle income retirees by 5 to 30 percentage points, and some working seniors will face marginal tax rates in excess of 100 percent. This tax is not really a tax on Social Security benefits, but a tax on other income. It punishes those who have worked hard to save for their retirement. It is just not fair to saddle senior citizens with additional taxes simply because they have carefully put away savings to supplement their Social Security.

Let me share with you two examples of how this proposal will affect Utah seniors. The first example is a couple who worked hard all of their lives side-by-side running a small furniture store in a northern Utah town. They were moderately successful and have now retired on their Social Security benefits, a salary from the wife's part-time job, and the dividends and interest they earn each year from their savings and IRA's. Under the tax bill before us, which would increase the amount of their Social Security benefits taxed to 85 percent, they would pay $2,038 more in taxes than under present law. Non retired taxpayers with the same amount of income would face no additional income taxes.

Why are we putting a heavier burden on the backs of our seniors than on the very wealthy?

The second example is a senior who continues to work as a self-employed carpenter and who manages to earn enough to land in the 28-percent tax bracket. Under this proposal, of every additional dollar he earns, he would not only lose 33.3 cents in Social Security benefits, due to the earnings limit, but also would have to pay 28 cents in Federal income tax, 15.3 cents in Social Security payroll tax, 20 cents under this new proposal, and 7.2 cents in Utah State income tax.

The bottom line is that for each additional dollar of income this senior would pay more than $1.03 in taxes. By earning another dollar, he would actually end up .03 cents poorer than before. Do we want to punish senior citizens for working?

I believe that we should be repealing the earnings limit, not increasing the penalty for those working toward retirement. The current tax treatment of retirees already creates enormous disincentives to work and save. This tax bill only exacerbates this flaw and further penalizes those who have saved to provide for their retirement.

This bill provides that the taxes raised by this provision is to go to the Medicare trust fund. I question why this proposal is in this so-called deficit reduction bill. Bailing out the Medicare trust fund is a separate problem, more properly handled with health care reform. Let's not raise funds from our seniors in the name of deficit reduction and then not use it for that purpose.

Mr. President, this provision will push many senior citizens into a higher tax bracket, create disincentives for seniors to work, and punish those who have worked and saved for their retirements. We should not require senior citizens to shoulder more than their share of the deficit reduction burden.

REASON NO. 4: HIGHER INDIVIDUAL TAX RATES HIT SMALL BUSINESSES AND WILL HURT JOB CREATION

The tax bill before us relies heavily on higher income tax rates on the so-called wealthy to raise revenue. These tax rate increases are based on a false notion that somehow, these with higher incomes in our society have cheated those with lower incomes and now it is time to get them to pay their fair share.

Although these tax increases are aimed at the wealthy, Mr. President, they will hit the lower and middle-class worker with job losses. This is exactly the result we saw after we enacted the ill conceived luxury taxes in 1990.

High marginal tax rates discourage hard work, risk-taking, investment, savings, and job creation. Consequently, there will be less capital available to invest in new business formation. The biggest losers will be the working class who need jobs.

Moreover, it is highly unlikely that the revenue expected from these tax rate increases will ever materialize. Some noted economists have warned us that individuals facing these higher rates will take action to avoid paying more tax by shifting investments and by working less. Economist Martin Feldstein estimates that if the so-called wealthy were to react to the increased tax rates by reducing only 10 percent of their taxable income, 75 percent of the estimated revenue will never come to the Treasury.

In fact, Mr. President, studies since World War II have shown that average Federal revenue, as a percentage of gross domestic product, have not changed much over the years, averaging around 19.5 percent, regardless of the tax rates in effect. It is clear that no matter what we do with tax rates, taxpayers will adjust their behavior and total revenue will not change very much. Thus, if we raise tax rates, economic activity will go down because people will work less and risk less and earn less. The higher rates will be offset by this lessening of economic activity. On the other hand, if we lower the tax rates, the opposite occurs and we end up with more economic activity that more or less compensates for the

lower rates. It is futile to attempt to solve the deficit problem through tax rate increases.

This bill's higher income tax rates are particularly unfair for small business owners who operate through partnerships, S corporations, and sole proprietorships. Because more than three-fourths of U.S. businesses are organized in one of these three forms, and report their taxes as individuals, there is far more to consider here than just the inaccurate idea that the rich have unfairly benefited from too low taxes and should now pay more. Many of these small business owners pay taxes on income that they never receive. Because small businesses are often undercapitalized, owners find themselves plowing their earnings back into the business to finance growth and expansion. These higher rates will simply cut back the ability of many of these businesses to grow and create jobs.

Again, Mr. President, we should be focusing on nurturing our small and growing businesses—not punishing them with higher tax rates that will dampen growth and job creation.

Another area in which this bill misses the target is in its noticeable lack of a capital gains provision. Even the small provision that was contained in the House-passed version has been removed from the Senate bill. If we are truly concerned about the health of this Nation's economy, we should be addressing the issue of capital gains taxation. We can do more to help create jobs in this Nation by lowering the capital gains tax rate than by any other single provision.

REASON NO. 5: THIS BILL WORSENS THE MARRIAGE PENALTY

Mr. President, it seems that one of the underlying premises of the tax bill before us today is that the so-called wealthy in our Nation have not been paying their fair share of taxes and it is now time to rectify this supposed inequity. Indeed, many of the job killing tax hikes in this bill are justified in the name of tax fairness. Unfortunately, the word fairness has become a code word for tax increases—increases that will hit everyone either now or later.

There is another tax fairness issue, though, that has been largely missed by most—the inequities of marriage penalties.

In this country, we are, in effect, financially punishing married couples merely because they want to form the basis of society's most fundamental and important unit—a marriage and a family. Marriage penalties are essentially a Federal tax on marriage licenses that families must pay year after year after year.

Families are the emotional, social, and financial building blocks of our society—and they nurture America's most important resource, our children. If the family fails, the Nation will fail.

Mr. President, over the years, many of our colleagues on both sides of the aisle have expressed their concerns on this floor about what is happening to our families. They have pointed to the high divorce rate, the growth in single parent families, the number of women and children living in poverty, and the difficulty that many two-parent families have in making financial ends meet.

At the same time we have been expressing our alarm about the direction of American families, the Federal Tax Code has been undermining the family through marriage penalties. The code already imposes marriage penalties on almost every income and age group. The bill before us today makes them worse—far worse in some cases.

Let me give you some examples, Mr. President.

TWO LOW INCOMES WITHOUT CHILDREN

Take two single individuals, let's call them Jim and Marsha. Each makes the minimum wage, $8,500 a year, working in a retail store. Suppose Jim and Marsha decide to get married. Under the tax bill before the Senate, they would have to pay a 25-percent marriage penalty for that privilege. Two single individuals making $8,500 each and taking the standard deduction would owe Federal tax of $368 each, for a combined tax of $736. If they get married, their Federal income tax would go up to $916, an increase of $180, or 25 percent.

The cause of this marriage penalty is the standard deduction that allows single taxpayers to deduct $3,700 each. Therefore, two individuals who decided not to get or stay married would have a standard deduction of $7,400. As a married couple, their standard deduction is reduced to $6,200, resulting in a $1,200 increase in taxable income.

TWO LOW INCOMES WITH CHILDREN

Mr. President, that is bad enough. But, now let's look at the devastating marriage penalties for two-earner low income families with children.

Consider the following situation. John, a widower with two small children, makes $13,500 a year as a custodian with the public school system. John has been dating Becky, a divorced mother of two who makes $13,500 a year as a supermarket checker. John and Becky want to get married, but are not sure if they can afford to.

Under the tax bill before us, John's and Becky's income tax returns would show zero tax due if they filed as single individuals. In fact, because they both qualify for the head of household rate and for the earned income tax credit, Uncle Sam would be sending them each a check for $2,002 or $4,004 total.

If John and Becky were to marry, however, not only would they get nothing back from the Treasury, but combined, they would actually be required to pay $1,005 in Federal income taxes—a $5,009 marriage penalty. This is a penalty of nearly one-fifth of their total income—just for being married.

I hope each of my colleagues understands this point. Our Tax Code provides that two single parents making $13,500 with two kids each will be penalized $5,000 each year if they get married. Stated another way, a family of six with both parents working and making $13,500 each will be rewarded with over $5,000 a year in Federal tax benefits if they get divorced and each take two of the children.

There are really two marriage penalties affecting two-earner low-income couples with children. The first is the same one we saw with the couple with no children—the standard deduction. In this case, the standard deduction for a single head of household is $5,450—$10,900 for two heads of household. But because the standard deduction for a married couple is only $6,200, the married couple has $4,700 more in taxable income than if they were single.

The other marriage penalty is related to the earned income tax credit that low-income taxpayers with qualifying children can receive. In the case of an individual making $13,500 with two children, he or she could receive a $2,152 credit under the tax plan now before the Senate. This credit is lost entirely, however, when two individuals get married, because the credit is not adjusted for marriage.

MIDDLE CLASS FAMILY

The marriage penalty problem is not confined to families with low incomes, Mr. President. In fact, middle-class couples with children are often the victims, too.

Let us look at the case of Harold and Sue. Harold earns $30,000 a year as the manager of a gas station. His wife, Sue, works part time as a substitute teacher and makes $12,000 a year. They have two kids.

The combined income of Harold and Sue is $42,000, from which they deduct $8,000 in itemized deductions. After their exemptions, they owe a Federal income tax of $3,690 on their joint return, under the proposal before us.

However, if Harold and Sue were to divorce, and she were to claim the two kids as dependents, their combined tax would only be $857, for a savings of $2,833.

Is it really our policy that we should punish this family for being married, Mr. President?

SOCIAL SECURITY RECIPIENTS

Unfortunately, Mr. President, families with children are not the only ones hurt by marriage penalties in the Tax Code. Senior citizens receiving Social Security can also be hit hard by them. Under current law, single individuals can exclude 100 percent of their Social Security benefits from taxation if they make less than $25,000. But if they are married, rather than letting them exclude $50,000, we only allow them to exclude $32,000.

Take seniors Joe and Martha. Joe, a 71-year-old college professor still

teaches some courses and does a little consulting. He earns $35,000 a year. He also draws $12,000 in Social Security benefits. Martha retired last year at age 65 from her bookkeeping job and also receives $12,000 a year in Social Security. Martha also has a pension that pays her $20,000 a year.

Their joint tax return show a total tax due of $10,911. Because their combined income exceeds the current law threshold for Social Security benefit taxation, they are both taxed on one-half of their Social Security income. If Joe and Martha were to divorce, however, Martha could avoid paying tax on most of her Social Security and their combined single tax liabilities would be only $9,081, a marriage penalty of $1,830.

Under the bill before us, however, the marriage penalty for Joe and Martha gets much worse.

Because the percentage of Social Security benefits increases from 50 to 85 percent under the bill, the marriage penalty for Joe and Martha increases to $3,006, a 64-percent increase.

HIGHER INCOME EARNERS

One of the most destructive effects of the marriage penalty is found with higher income earners, Mr. President. Consider the case of Ted and Karen. Ted is a successful financial planner and makes $135,000 a year. Karen earns $145,000 a year as an attorney. They each have itemized deductions of $15,000.

Under current law, Ted and Karen pay taxes of $71,446 as a married couple. As singles, however, they would pay a combined total of only $67,933, a difference of $3,513.

Under the tax bill we are now considering, Ted and Karen's marriage penalty increases to $8,505, an increase of 142 percent in the marriage penalty.

The marriage penalty at the higher earner scale is particularly bad, Mr. President, because there is no differential in the threshold for the new surtax between those who are single and those who are married. In other words, you get hit with the new higher rate of 39.6 percent at taxable income of $250,000 whether you are single or married.

This is extremely poor tax policy and, in my view, was put in the bill this way for one reason only—to raise revenue.

I realize that many of my colleagues do not have a lot of sympathy for a couple making over $250,000 combined. But let us think about this for a minute, Mr. President. What kind of messages are we sending taxpayers? That we do not want them to become educated or take risks or work hard and become successful? Or that if they are successful, we want them to stay single and not form families? This is not a tax because they are wealthy, but because they are married.

And let us get one more thing straight, Mr. President. The bill before us raises taxes on everyone in one way or another. It also exacerbates an existing flaw in the Tax Code—the marriage penalty—for millions of families in many income categories, not just for the rich.

In essence, the marriage penalty is a penalty for forming a family unit. So, as long as we are attempting to make our Tax Code more fair, Mr. President, we ought to correct this antifamily tax.

I ask unanimous consent that an article from the March 10, 1993, Wall Street Journal and an editorial from the June 18, 1993, Wall Street Journal be reprinted in the RECORD. These highlight the marriage penalty issue. We cannot allow additional marriage penalties to be added to the backs of our families.

Mr. President, there are a number of different marriage penalties in the current Tax Code, and several of them are made worse by the tax bill. The current law's marriage penalties include the following:

The standard deduction: The 1993 standard deduction for single taxpayers is $3,700, thus two single individuals would have a combined standard deduction of $7,400. But, the standard deduction for married taxpayers is only $6,200, $1,200 less than the combined standard deduction of two singles. This alone creates a marriage penalty of $1,200 times the effective tax rate.

The tax rate schedule: The tax rate schedule produces a large marriage penalty from the different threshold amounts of the tax brackets. Single individuals move from 15 percent to the 28 percent tax bracket at taxable income levels of $22,100. For married individuals, the 28-percent tax bracket begins at $36,900. Two single individuals could have combined incomes of $44,200 before the 28 percent tax bracket takes effect. That is $7,300 more than the threshold for married individuals.

Social Security: Social Security recipients may or may not have to pay taxes on the Social Security benefits they receive, depending on their total income. Under current law, the threshold amount for taxation of benefits for single individuals receiving Social Security is $25,000. Fifty percent of a single individual's Social Security over the $25,000 threshold must be included as taxable income. The threshold for married individuals, however, is $32,000. Two single individuals can have income other than Social Security, plus one-half of their Social Security, of up to $25,000 each, or $50,000 combined, and they will still would not have to pay any taxes on their Social Security benefits. But a married couple with income over $32,000 would have to pay tax on 50 percent of their Social Security for income over $32,000.

Limitation of itemized deductions: Itemized deductions begin to be limited for incomes over $108,450 for single and for married couples. Therefore, two high-income single individuals would not have their itemized deductions limited until they made $108,450 each or potentially up to $216,900, but they would start to lose itemized deductions at $108,450 if they are married.

Phaseout of personal exemptions: Personal exemptions are phased out over $108,450 for single individuals, $135,600 for head of household, and $162,700 for married couples. Therefore, while a married couple starts to lose their personal exemption at $162,700, if they are not married, they potentially would not start to lose their personal exemption until $216,900, or if they have children, until they made over $271,200.

Passive loss: Individuals and married couples can deduct up to $25,000 of certain real estate losses. This deduction is phased out above $100,000 in income. Because this rule is the same for both married couples and individuals, a married couple could only make up to $100,000 and still deduct up to $25,000 for these real estate losses. If the same couple gets divorced, they could potentially deduct up to $50,000 and not start to lose the deduction until they make over $200,000.

In addition to the current law's marriage penalties listed above, Mr. President, the following marriage penalties are worsened by the tax bill before us today:

Tax rate schedule: The marriage penalty is greatly exacerbated for those with high incomes because of the new 36-percent tax bracket and the 10-percent surtax on incomes over $250,000. The 36-percent tax bracket begins for married individuals at $140,000 and for single individuals it begins at $115,000. Thus, two singles may make up to $115,000 each or a combined income of $230,000 before the 36-percent bracket would become effective, but a married couple faces the higher rate at $140,000. This marriage penalty is even greater for those affected by the 10-percent surtax in incomes over $250,000. This surtax does not distinguish between single or married individuals. Therefore, a married couple with taxable income of $500,000 would have $250,000 taxed at the higher rate. However, if they were to get divorced and each made $250,000, they would not fall within the surtax level.

Social Security: This tax bill increases the threshold for the taxation of Social Security benefits to $32,000 for single individuals and $40,000 for married couples. Although the threshold amounts are increased from the current law's levels, the amount of Social Security subject to tax over the threshold is 85 percent rather than 50 percent. This results in a worsening of the current law's marriage penalty.

Overall, Mr. President, the marriage penalties represent the worst kind of unfairness. Before we attempt to make

the so-called wealthy pay their fair share, let us make sure we are not making families pay more just because they have solidified those families with a legal marriage.

REASON NO. 6: THE BUSINESS MEALS LIMITATION WILL LOSE JOBS

Mr. President, the tax bill before us contains a provision to reduce the deductible portion of the meals and entertainment expenses from 80 to 50 percent. This will be counterproductive to deficit reduction and economic growth.

Although this provision is ostensibly aimed at large corporations that have an unfair reputation of abusing the meals and entertainment deduction, it will primarily hurt women and minority workers and small businesses. Estimates prepared by Malcolm Knapp, Inc., for the National Restaurant Association indicate that over 165,000 jobs will be lost nationwide by this provision. This is based on a projection that business meal sales will drop by almost $3.8 billion, which is nearly 10 percent.

In the 4 years following the 1986 Tax Reform Act, where the deduction for business meals was limited to 80 percent, real sales declined almost 6 percent in establishments with per-person checks of $15. In fact, the 6 years since the 1986 tax act have been the worst the restaurant industry has seen in decades. As a matter of fact, Mr. President, from 1986 to 1992, restaurants generated 700,000 fewer jobs than they had in the previous 6 years.

Most restaurants are small businesses with very thin profit margins; 72 percent have annual sales of less than $500,000. Even small drops in revenue will go right to the bottom line, and often exceed the entire profit that many restaurants show each year. Since prices usually cannot be increased and labor is often the only controllable cost that restaurants have, the only way for many to deal with this will be to lay off workers.

Another important factor to note, Mr. President, is that almost 60 percent of employees in the foodservice industry are women, 20 percent are teenagers, and 12 percent each are African-Americans and Hispanic. These groups are often the least able to economically stand the dislocation this provision will force.

Contrary to what many might believe, most individuals who purchase business meals are small businesspersons; 70 percent have incomes below $50,000 and 39 percent have incomes below $35,000 and 25 percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low to moderately priced restaurants. The average amount spent on a business meal, per person, is only $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fatcats, Mr. President.

The restaurant industry in Utah employs 43,000 people and pays annual wages of $300 million. It is an important sector of our State's economy—917 jobs are estimated to be lost in the State from this provision. What do I tell a person who has been laid off from his or her job because of this, Mr. President? That this tax increase is merely closing a corporate loophole?

Much of the $15.3 billion in revenue that has been estimated to be raised from this provision will not be realized. Like the luxury tax, this provision will hit the providers of business meals much harder than the purchasers. The result will be fewer business meals purchased, which translates into lower deductions and less revenue. The loss of 165,000 jobs will also reduce the Treasury's intake of payroll and income taxes and increase the outlay of unemployment taxes. Let us cut out some of the billions of dollars of new spending before we raise anyone's taxes, especially taxes that will result in so many lost jobs.

I want to cut the deficit as badly as my colleagues in the majority do, Mr. President. But I do not think the way to do it is through lost jobs—especially lost jobs to those in our society least able to afford it: women, often single mothers, and minorities.

REASON NO. 7: CONCERNS REGARDING MEDICARE AND MEDICAID

Mr. President, we simply must constrain Federal spending, and we cannot ignore the fact that the health care component of the Federal budget has been growing so rapidly. This is a fact recognized on both sides. It is time to deal with the growth of all entitlement spending.

However, there are a number of grave problems evident in the specific Medicare and Medicaid changes embodied in S. 1134. For example, I believe that many of the specific cuts in the finance package do not fairly spread the deficit reduction. Others have flaws in drafting or in concept that can be corrected and still achieve the same level of savings. There are errors both of omission and commission.

Unless corrected in conference, these Medicare and Medicaid cuts can have an adverse impact on the delivery of quality health care services to our citizens. In addition, there are a number of health provisions that I believe should have been added to the bill, some of which were contained in H.R. 11 last year.

Let me be more specific:

Magnitude of Medicare cuts: Before I discuss my concerns with some of the specific provisions, let me highlight my deep objection to the way these cuts were targeted. It was a small gratification that the Committee majority sought to reduce the level of tax increases prior to markup. That they went back and cut an additional $19 billion from Medicare to make up those revenue losses—an additional $19 billion, I might add, that was targeted mainly at hospital services—was simply the wrong way to go.

What I am concerned about, Mr. President, is the impact on health care services in our country. Already, we have a substantial number of providers who do not want to treat Medicaid patients. Why? Because they are not being paid adequately for their services.

With the bill being considered here today, providers may start turning Medicare beneficiaries away as well. And who knows what will happen after health care reform? Providers may just leave the market altogether.

The medical community in Utah is extremely concerned that certain of the cuts in Medicare will further limit the currently constrained access patients have to services, especially primary care services, and services in rural areas. Primary care physicians are having great difficulty in covering their current caseloads. One small ray of sunshine in this otherwise gloomy picture is the Committee provision to allow a full update for primary care. But that alone is not enough.

Let me quote from a letter I recently received from a hospital CEO in Utah:

> As you are probably aware, Medicare currently reimburses only slightly more than half of hospital patient care charges. This leaves hospitals with the dilemma of covering the gap of unmet expenses incurred in caring for Medicare patients. Unfortunately, a large portion of these excess expenses must be covered through cost-shifting to patient groups who are carrying more traditional insurance plans or who are self-insured. In effect, this situation has created a "hidden-tax" on all other health care consumers.
>
> The facts I have presented represent just one hospital in Utah. The effect statewide and nationally would be staggering.

What is important for my colleagues to keep in mind, Mr. President, is that these reductions are not doing anything to cut costs, they are merely cutting reimbursements. And when we cut reimbursements without any meaningful reform in the underlying programs, we are merely fostering cost-shifting.

I will just give one example of how we could work to avoid this. Home health reimbursement. I know the Finance Committee staff was looking at a proposal to change the reimbursement policy from a cost-based system with an upper cap of 112 percent, to prospective reimbursement at a lower, such as 90 percent of the mean. Such a change would provide the incentive for cost-effective services and hold down costs. This is the type of reform we should be considering instead of the slash-and-burn approach.

I will just highlight some of my specific concerns about the health provisions, most of which pertain to the Finance Committee language:

Home health: As my colleagues are aware, I raised this issue at the markup, and I continue to be concerned about the impact of the committee's

recommended language on the provision of quality home health services.

I have been a vocal advocate of home health care. I was a strong supporter of the initial inclusion of home health care services under Medicare, and I continue to feel they are a critical element in our continuum of care for this Nation's elderly population.

As technology has advanced, it has become possible to provide more and more services that were once available only within an institutional setting in the home where patients are more comfortable and where they are surrounded by family and friends whose presence contributes to a successful recovery.

In many rural areas, such as those in Utah, patients have come to rely on home health, which is the linchpin of the delivery infrastructure. When given a choice between receiving treatment in an institution or at home, patients frequently choose home care, for the obvious reasons.

In this context, it seems to me that we should be doing all we can to encourage home care. This bill moves totally in the wrong direction.

I am gravely concerned that approval of the home health provision in this bill before us today could limit patients' ability to receive services. Indeed, this situation is so serious that I cannot believe Committee members were fully aware of the impact of the chairman's mark when we voted last week.

Under current law, payments to freestanding home health agencies are limited to 112 percent of the mean labor-related and nonlabor per visit costs. Hospitals receive an additional add-on. This reimbursement level, the cost limits of which are calculated annually, has been in place since enactment of the Omnibus Budget Reconciliation Act of 1987.

S. 1134 would significantly alter that payment methodology. The cost limit would be lowered to 110 percent of the median, not mean, Mr. President. This may appear to be a simple change, a simple two percent reduction in an upper limit. But that is not the case at all.

The impact of this measure will not be marked in terms of an esoteric mathematical calculation; rather, it will be felt by home health agencies throughout the country, and more importantly, by the elderly patients they serve.

A change of this type deserves a full examination and careful deliberation before it is voted upon. There has been no such consideration or deliberation. We have had no hearings. No debate during markup. And our limited time here today precludes that examination.

I do not believe we should endorse and approve a provision whose ramifications are so uncertain.

I have looked into this in some depth, and I understand that the change from mean to median translates to a reduction in reimbursement rates in the 8 to 10 percent range. In dollars and cents, comparing the cost limits under current law to those under this Senate proposal, the effect would be to produce a reduction of more than $6.75 for skilled nursing visits in rural areas, and about $6.00 in cities.

For home health aides who provide personal care services, the reductions amount to more than $5.50 per visit in urban areas, and over $5.80 in a rural area. It is questionable whether or not agencies that serve patients in rural areas and the inner cities will be able to continue to operate given these reductions. Certainly, some will not.

The ultimate effect of this proposal could be to reduce the amount of reimbursement that home health agencies receive, not only this year, but in each subsequent year. Instead of reimbursement rates being frozen for 2 years, as the House-passed provision would do, rates could continue to be ratcheted down each year, if home health agencies with the highest costs over the limits drop out of the program. Most likely, these would be those serving Medicare beneficiaries in rural areas. As this happens the median would continue to drop, and the consequences would be disastrous.

I cannot attempt to examine all of the possible consequences of approving this unwise proposal. It is clear to me that the House language is far more preferable and should be retained in conference.

I hope that the chairman will agree to hold hearings on home health care later this year. We need to examine the issue of how to appropriately reimburse such services and encourage their use, not discourage their provision.

Childhood immunizations: Mr. President, this is an extremely important issue—we do need to take responsible steps to boost our low childhood immunization rates—and an issue which deserves careful deliberation. This is of some concern to me. We have before us today language from two committees on which I serve, Finance, and Labor and Human Resources.

At the outset, let me state my appreciation to the staff of both committees for working so diligently to pare back Secretary Shalala's original proposal, which I thought was misdirected and overly broad. As I believe our hearing amply indicated, this is a complicated issue, and the problem with childhood immunization rates is not really one of dollars and cents.

Many States have been moving to correct the problem in a host of creative fashions. In Utah, for example, our State immunization task force has been exploring what appears to be a very promising public/private partnership. And whatever we adopt here today should build on that creativity, rather than stifle it. A good example is the Labor Committee tracking system, which modified the administration's proposal substantially to allow that flexibility. Other important changes were made by the Labor Committee, such as those to enhance privacy protections.

As I indicated at the markup last week, I do have concerns about the approach embodied in the Senate Finance Committee approach.

Means testing is an important step in the right direction and does substantially improve the administration's bill. I know that the eligibility standard for free vaccines—75-percent of median household income—was based on the child care bill.

While this would seem to be a good basis for compromise, there are some important differences. Child care is not an entitlement, and the 75-percent figure was a ceiling. States could lower that amount, and would have an incentive to do so because there is a State match.

State median incomes vary tremendously. I am told that in the highest State we would be providing free vaccines to families with incomes of $42,000. In the lowest State, I understand we would only cover families with incomes of around $22,000. This range in coverage is troublesome.

Another concern is that the bill changes the Secretary's negotiating authority, in particular to review the books and records of vaccine manufacturers. I think this sets a horrible, horrible precedent, and I have been unable to find an administration representative who can adequately explain to me why it is needed.

One HHS representative actually told us that the provision was needed so that the agency could ensure manufacturers were making an honest profit. The idea of HHS being the profit police for business is most troublesome to me and I hope to the majority of my colleagues as well.

Under the current Centers for Disease Control and Prevention contract, HHS has the usual authority of a Secretary under Federal procurement law to review business records within appropriate confines. Why do they need additional authority? I think that this open book provision should be dropped.

Physical therapy: The bill before us today is flawed because it does not consider a very important amendment authored by our colleague, Senator CHAFEE. Under current law, outpatient physical and occupational therapy services provided by independent therapists are limited to $750 annually. The Chafee proposal would raise the cap $900. I think this is a good proposal. I was heartened that Chairman MOYNIHAN has indicated his support for the measure and his willingness to advance the proposal on a separate bill if the House provision cannot be retained in conference. This is very important

to many physical therapists in my State of Utah.

Eye services: Mr. President, earlier this month I had the wonderful opportunity to participate in the dedication of the new John Moran Eye Center in Salt Lake City. This state-of-the-art eye center was undertaken completely with private contributions, and is expected to help as many as 40,000 people a year from all 50 States and the rest of the world.

It seems ironic that at the very time the Moran Center is opening in Utah, we are back here in Washington debating severe cuts for ophthalmologic services. As the head of the Moran Eye Center wrote to me recently:

> Of all of the many problems with the Clinton administration's budget proposal, there is a very controversial change in how Medicare practice expenses will be reimbursed. This is another way to directly take a shot at the surgical subspecialities. We have seen cataract surgery reimbursement plummet by approximately 40% in the last four years and this appears to be very unfair in targeting a small group such as ours again. We depend on our surgical fees in support of our education and research missions.

Mr. President, Medicare has made drastic cuts in ophthalmology services over the last several years. Already enacted legislation will increase that cut to 44 percent, and the committee is proposing to make those cuts total 56 percent by 1996.

The proposal to alter the methodology used to calculate the practice expense component of physician fees under Medicare is also of concern. There are simply no data on which to base such a calculation. Imposing an interim, arbitrary reduction is not consistent with the whole premise behind the resource-based relative value scale system. The proposal is premature at best, and it is of great concern to Utah ophthalmologists. I hope it can be dropped.

And there is another aspect to this issue which is not being widely discussed: reimbursement for intraocular lenses [IOL's]. The IOL industry is an extremely competitive one globally. It has been one of our success stories. Eighty percent of the world market is supplied by the United States.

Medicare is the dominant payor of IOL's, since cataracts are largely a problem of the aging. A precipitous change in reimbursement such as the Finance Committee reduction from $200 per lens to $150 will have dramatic economic repercussions for manufacturers. It is not a well-known fact, but nearly every U.S. firm is now operating at break-even. What will happen when Congress ratchets these rates down so much? This could have significant ramifications in several congressional districts, where the IOL industry is a significant economic factor. Congress should rethink this one. These cuts will abruptly change the IOL manufacturers' competitive posture globally. It makes bad economic sense and questionable health policy.

I hope that my colleagues are not letting their interest in cutting spending cloud their vision. This is not the right way to go; eye care services are too important.

Long-term care: I would also like to focus the Senate's attention on this bill's provisions affecting an important component of our health care system: long-term care. This is extremely important to the elderly and indeed all of us who have elderly relatives. It is unfortunate that the Congress does not always pay as much attention to the issue as our constituents do.

A small but significant portion of the Medicare savings in this bill would come from cuts in reimbursement to skilled nursing facilities [SNF's]. First, this legislation would eliminate return on equity [ROE] payments to SNF's, a provision which is intended to encourage private investment in such facilities.

The Senate should consider—and reconciliation conferees should bear in mind—that ending ROE payments would have two unintended consequences. It would encourage current investors to substitute borrowed money for their equity in SNF's, thereby raising Medicare reimbursement for facility mortgage interest costs. More importantly, it would discourage private investment in the construction and improvement of SNF's, which flies against the face of demographic trends that guarantee there will be a need for much greater capacity.

Second, the bill would reduce from 112 percent of the mean per diem routine service costs to 110 percent of the median per diem routine service costs Medicare's routine cost limits for SNF's. In the short run, for facilities whose costs are at or near the current cost limit, this reduction would threaten the quality of care provided to Medicare beneficiaries. In the long run, the reduction in Medicare SNF routine cost limits would threaten the financial viability of our SNF providers and, therefore, beneficiary access to skilled nursing care.

Finally, I would like to address a provision that appears in S. 1134 concerning the rights of nursing facility operators to obtain financial information from either residents or prospective residents of their facilities. This change was made with no hearings or other open discussions.

Briefly, section 7422(c) of the bill prohibits nursing facility operators from seeking any financial information from an applicant or their family regarding their ability to pay for care. I understand the purpose of this provision: To ensure equitable access to nursing facility services for Medicaid beneficiaries as well as those with the means to finance their own care. That is a laudable purpose.

The immediate consequences of the proposal, however, would be to send the nursing facility industry into an economic tailspin. This asks long-term care providers to ignore the ability of their residents to pay for the services they provide. This is contrary to the primary principle of business enterprise, which we all know is to ensure that you are compensated for the services or goods you provide.

I fail to see what sense it makes to instigate this economic chaos. The predictable result of such a proposal would be an increased reliance on State Medicaid programs to finance this care. I seriously doubt whether our overtaxed State Medicaid agencies can pick up this slack.

If we are to seriously address the financial inequities in America's long-term health care delivery system, it is my sincere hope that we do it within a comprehensive context, not in this piecemeal fashion.

ProPAC representation: In a related issue, I would like to discuss the current composition of the Prospective Payment Assessment Commission [ProPAC]. I had intended to offer an amendment on this, but understand that it would violate the Byrd rule and thus cannot be considered.

At present ProPAC is comprised of 17 individuals who are authorized to provide Congress with recommendations regarding the range of Medicare payment issues. While their original goal was to review hospital reimbursement issues, ProPAC's role has been broadened to examine payment policies for other types of facilities, including nursing homes. One good example is a provision in this bill which requires ProPAC to study and report to Congress on the impact of applying the routine per diem cost limits for SNF's on a regional basis.

Unfortunately, there is no SNF representation on the ProPAC Advisory Committee. When talented, experienced nursing home candidates are recommended for ProPAC openings, they are denied because the statutorily mandated makeup of ProPAC does not include their representation.

I strongly support adding nursing home representatives to the ProPAC Advisory Board. I had intended to offer an amendment to modify the statute to accomplish this, but since I cannot, I would like to seek the support of the chairman and ranking minority member of the Finance Committee to include this amendment in another bill or to work with ProPAC to ensure adequate representation by the nursing home industry. I will continue to pursue this, because it is important to me.

Renal dialysis: Mr. President, for years I have had a strong commitment to helping patients with renal failure, whether through dialysis or transplant. Now, 20 years after implementation of Medicare's End-Stage Renal Disease

[ESRD] program, the Federal Government is covering 93 percent of patients through Medicare. This is a real success story.

I recently was contacted by the administrator of the University of Utah dialysis program who urged adoption of ProPAC's recommendation for a 2.5 percent update in dialysis reimbursement. I agree with her completely.

ESRD is the only Medicare program which has not had routine increases. In fact, there have even been decreases. That is not the way to go. I hope this can be remedied in conference.

By the way, Mr. President, for those of my colleagues who are not aware of the University of Utah's program, I would just like to relate that this is a real success story. It is a very good program; Utah is now treating several patients who have survived on dialysis for more than 22 years.

Hemophilia pass-through: Last year, I worked to include in H.R. 11 a provision extending authorization for separate payment for the costs of administering a blood clotting factor to hospitalized Medicare beneficiaries with hemophilia. I was extremely disappointed that the Finance Committee could not accommodate my request this year to include that provision in this legislation. I hope that the Ways and Means provision can be retained in conference or that it can be accomplished through other legislation on an expedited basis.

Mammography services: The House bill contains a minor, but important, provision which I believe makes a good deal of sense. It requires that any mammography service covered by Medicaid or Medicare be conducted by a facility which is appropriately credentialed under the new Mammography Quality Standards Act of 1992. This new law was intended to ensure that women have access to high-quality mammography services; surely, this should apply to Medicare and Medicaid beneficiaries, and I hope it can be retained in conference.

Orphan drug tax credit: Another provision contained in H.R. 11, but not in this year's bill, is the extension of the tax credit for orphan drug research. I am extremely concerned that the provision could not be brought forward to S. 1134 and I hope that this can be remedied. The tax credit is not costly—$6 million per year at most—but it is so necessary in supporting vital research. To remove this tax incentive from the Orphan Drug Act would be a drastic mistake.

Antifraud efforts: In addition to some of my earlier comments on Medicaid provision, I would like to note that the Finance Committee bill did not incorporate a House provision which is of great concern to Utah. In a move that flies in the face of health care reform efforts, the House voted to cut funds for State Medicaid fraud control units. Just while we are working to make health care more efficient, to weed out fraud and abuse, the House adopts language which would severely cripple Utah and other States who are working so hard to fight fraud in the delivery of health care services. I hope that this will not be retained in conference.

Biotechnology: I would like to express my outrage at the inclusion of the prohibition on sale, marketing, or use of bovine growth hormone. This was in the agriculture title of the bill, but it has severe implications for health care.

Adoption of this provision by the Congress will destroy support for the U.S. biotechnology industry and virtually hand over to our worldwide competitors this fledgling industry. The United States is the current world leader in biotechnology, an industry employing more than 80,000 employees and annually generating sales of around $5 billion.

The Agriculture provision not only prohibits the use of this new biotechnology product, but also permits the Secretary of Agriculture to continue the prohibition beyond the statutory period until the President certifies to Congress that other major milk and dairy exporting countries have approved the commercial use of bovine growth hormone. In this self-destructive approach, the United States would be required by law to lag behind other countries' application of an important new technology.

This action by the Congress raises the specter of safety concerns that have been found unsupported in reviews conducted by the Food and Drug Administration. Indeed, it is the likelihood that the FDA was soon to issue its conclusion of safety and efficacy that may have prompted this statutory language.

It is time that we try to put aside some of the parochial interests of certain States and look to maintaining the U.S. competitiveness that benefits all of us.

Medicaid formulary: Finally, Mr. President, there is one questionable provision contained in both the House and Senate bills, and I urge my colleagues to give this a second thought before allowing it to become law.

The Finance Committee title allows States to establish prescription drug formularies under Medicaid. During markup, Chairman Moynihan agreed with my concerns that this language could be more carefully written to safeguard the rights of Medicaid beneficiaries. Unfortunately, my suggestions to improve the committee language were not incorporated.

Let me be clear, Mr. President. I realize that we must do what we can to hold down Medicaid spending. The State of Utah has written to me and said they are interested in establishing a formulary.

At the same time, though, a number of us have been concerned about the potential downside to formularies, especially with respect to the access of beneficiaries to high-quality medical care. I do not believe that any good purpose is served by enacting a flawed program. Consequently, I have come to the conclusion that it would be in the best interests of Medicaid beneficiaries, the poor and the aged, many of them minorities, to strike this language from the bill.

Mr. President, these are not my concerns alone. Just last month, our learned House colleague from New York, Representative TOWNS, the new Chair of the Government Operations Subcommittee on Human Resources and Intergovernmental Relations, held an enlightening hearing on this issue. The substantial body of testimony presented at his hearing showed a real potential for creating a two-tiered system of medicine if formularies are instituted.

Here's an excerpt from Representative TOWNS' subsequent letter to Chairman MOYNIHAN:

> Because of recent complaints by patient groups and health care providers, on Wednesday, June 9th I held a hearing to review the efficacy of restrictive formularies. The testimony of researchers and patient groups was particularly compelling. First, a study by Louisiana State University researchers found that in states where formularies have previously been instituted, overall Medicaid expenditures have actually increased rather than decreased. When patients could no longer receive the necessary medication for their health condition, they became sicker and as a result there were increased hospitalizations and increased visits to physicians. Secondly, access to a variety of drugs is absolutely necessary to control or ameliorate many illnesses. Given the evidence that racial and ethnic groups respond differently to various medications, this situation is of particular concern.

Representative TOWNS went on to say:

> Medicaid recipients already experience a differential standard of care in terms of their access to prescription medications. An April 1993 survey by the Campaign for Women's Health discovered that: "Medicaid patients lack access to medication prescribed by physicians. Women complain about restrictive access and the need for prior approval of prescription drugs. More than a quarter of recipients have reported that a pharmacist has refused to fill her prescription because the drug is not covered under [M]edicaid."

Mr. President, this is not the only significant body of evidence indicating that restrictive drug formularies have the potential of seriously degrading the quality of medical care provided to Medicaid clients, especially those most vulnerable in our society. Members of the African American Religious Leaders for Medicaid Access such as the Reverend Jesse Jackson have written to me urging that the formulary provision be stricken. They said:

> As African American religious leaders who represent more than 14 million God fearing

Americans, we appeal to the Committee to reject this ill-advised proposal that will likely result in untold human suffering. We beseech the Committee members to fulfill their moral obligation to protect the least of these, God's little ones—the vulnerable young, seniors, women, the disabled and the poor—and remove this proposal from the deficit reduction package.

While this plan is designed to cut the Medicaid budget, studies show that it would actually increase health care costs under both Medicare and Medicaid. Deprived of appropriate medicines, poor people will get sicker. They will be forced into already overcrowded and under-staffed emergency rooms. They will stay in hospitals longer and require more operations. Some may even die.

All taxpayers will eventually pay for this short-sighted plan, however, the biggest cost will be in the indignities and human suffering endured by our nation's poorest and often least healthy citizens. People of color will suffer in disproportionate numbers.

Equally compelling, recent studies have questioned the cost-effectiveness of formulary programs, but I will discuss these in more detail later.

There is another important reason why this formulary provision is unfair. When Congress established the current prescription drug rebate system in the 1990 Omnibus Budget Reconciliation Act, we told drug manufacturers that we would preclude States from being able to restrict drugs through formularies or requiring prior authorization before a drug had been on the market for 6 months.

That we promised manufacturers this quid pro quo is not to be questioned. The Finance Committee markup document itself reflects this agreement. It notes that the present law:

Requires drug manufacturers to provide rebates to State Medicaid programs in exchange for coverage of their products. The rebates required by current law include (1) a basic rebate designed to ensure that states are paying less than the average manufacturer price [AMP] for a product, and (2) an additional rebate designed to ensure that increases in Medicaid's prescription drug costs will not exceed inflation in the general economy. In return, states are not permitted to establish formularies and they must permit the coverage of all products of a manufacturer who has a rebate agreement in effect except for those classes of drugs expressly listed in law which a state can exclude or otherwise restrict.

It is important to note that the pharmaceutical industry has provided three times the amount in rebates that CBO originally estimated this provision would generate. They are willing to do their share for deficit reduction, and, in fact, are being asked to do more in this bill through the provision eliminating the weighted average manufacturers' price calculation in the rebate. That alone is a $60-million revenue loss.

Two benefits come out of the rebate system. First, it guarantees access by Medicaid recipients to all drugs on the market. Second, it restrains costs of pharmaceuticals provided under the Medicaid system. Reneging on our commitment to the industry when we initiated the rebate system and installing a restrictive formulary program threaten both of these advantages.

The irony in all this is that the Finance Committee proposal is not even supported by the top drug utilization review official in the State of New York. Under the language of Chairman MOYNIHAN's proposal, this pharmaceutical use expert, and eminently experienced physician, Dr. Richard S. Blum, may actually be in the position of running the formulary that he believes is so ill-crafted.

Testifying earlier this month before the Towns hearing, Dr. Blum offered heart-rending, real-life examples of just how formularies led to additional hospitalization costs and increased suffering for his Medicaid patients.

Mr. President, this is the crux of the issue: A formulary program may save a few cents up front, but when we look at the entire spectrum of medical costs—all of which are going to be paid by Medicaid—those few cents of savings may be swallowed up and overwhelmed by the additional dollars spent by not allowing the most appropriate medications to be prescribed.

Yet, as dangerous as those potential cost increases are, there is an even subtler, more insidious harm that may arise out of drug formularies, and that, Mr. President, will be the de facto creation of a second class health care system for America's disadvantaged populations.

Simply put, drug formularies mean that Medicaid recipients may not have access to the newest and best medicines that you or I are able to obtain simply because we are currently in a better financial position. I believe that every Medicaid recipient has the right to appropriate medical care, including the most beneficial drugs as prescribed by a licensed physician.

The potential degradation of medical care for Medicaid beneficiaries should be reason enough for adopting my amendment. But there is another compelling reason for rejecting formularies—the increased costs they can bring to the health care system. I have already touched on this issue, so let me summarize.

By denying patients the most appropriate medications, other less effective and more expensive procedures must be used. A 1991 study published in the October 10, 1991, New England Journal of Medicine highlights my point. Reading from its conclusion, the researchers stated that "limiting reimbursement for effective drugs puts frail, low-income, elderly patients at increased risk of institutionalization in nursing homes and may increase Medicaid costs."

Mr. President, there are other scientific, highly reputable studies such as the one done by Dr. Frank A. Sloan at Vanderbilt University that have arrived at similar conclusions. The evidence continually builds that drug formularies implemented at the State level can be a no-win course of action.

As Chairman TOWNS cited, studies indicate that when a formulary was established in Louisiana, there was a 34-percent increase in the number of hospitalized patients, a 10.7-percent increase in their length of stay, and a corresponding increase in the number of physician visits.

And guess what happened? Louisiana repealed its program. If this is an example of the cost savings formularies will bring to our Nation, Mr. President, then I want nothing to do with it.

The bottom line is that Medicaid drug formularies aren't always such a good idea. Unless written very, very carefully, they can potentially cause additional pain and lengthened illnesses for Medicaid recipients. They can actually increase overall medical costs. And, they will potentially segregate our society into those who can pay for the latest and best that the medical industry has to offer and those who are forced to use yesterday's drugs. Mr. President, I urge my colleagues to reject drug formularies.

Coverage of benzodiazepines: The problem with the formulary provisions touches on another restriction that in my view has been short-sighted—Members of Congress exercising medical judgment that has the potential to deprive patients of needed drug therapy.

OBRA '90 allows States to exclude a class of important drugs from Medicaid reimbursement. Prior to OBRA '90, permissible restrictions allowed Medicaid to prevent reimbursement for various nonmedical treatments such as hair loss. In OBRA '90 the critical benzodiazepine drugs used for mental health treatment were added for possible exclusion.

These drugs are used to treat anxiety disorders that affect more than 8 percent of the population. These disorders occur at increased rates among the poor. Benzodiazepines are the most effective antianxiety drug for treatment for anxiety disorders, and in at least one case of one particular drug, for panic disorders, the only available treatment. Anxiety disorders are often severely distressing and handicapping. Yet, they are among the most treatable illnesses physicians confront. For the mentally ill, the need for these drugs is the same as the need of the diabetic for insulin.

Almost all of these drugs are now off patent and of minimal cost. Nonetheless, I understand that these drugs are not available in all States. Thus, I believe that certain mentally ill individuals will not get the very medicine known to work well and instead they will unnecessarily suffer, and society will bear the additional costs associated with their continued illness. Other medications, unfortunately, are not

only more costly, but are also not nearly as effective.

The Congress should not have precluded Medicaid from denying these medicines to patients in need. Let me quote from the executive director of the Utah Pharmaceutical Association,

> The benzodiazepines from our professional opinion are an important part of the physician's armamentarium in the treatment of mental illness, and should not be withheld under any circumstances. Many of our customers could not properly function in society without the continuous use of these most effective and safe medications.

The Congress should not deprive physicians of the opportunity to make therapeutic decisions. I do believe that repeal of this exclusion would save money and improve lives. I hope that we will be able to correct this defect in OBRA '90 as soon as possible. In the meantime, I hope that States will not inappropriately decide to limit these medications to the detriment of their citizens.

REPUBLICAN ALTERNATIVE

Mr. President, yesterday my colleagues and I offered an alternative budget plan that would reduce the deficit even more than the bill before us, without relying on tax increases. Unfortunately, this alternative was rejected by the majority.

Mr. President, the key difference to these two approaches to deficit reduction is one of taxes versus spending cuts. History has shown us that increasing taxes does not reduce the deficit. Time after time, taxes on the American people have been raised and time after time, the deficit has increased. In fact, the Congress passed tax increases as part of a deficit-cutting package in each of the years 1982, 1984, 1987, and 1990. Obviously, that approach did not work because the deficit has gone up each time. Mr. President, let's not repeat the same mistake we made during the budget agreement of 1990. That agreement raised taxes while promising future spending cuts and deficit reduction and look where it got us, we are slowly recovering from a recession and the deficit is higher. Mr. President, all the precedents are against raising taxes to reduce the deficit.

Mr. President, the problem is not a lack of revenues, it is the unbridled growth of Government spending. When taxes are raised, Congress continually spends the additional revenues and more. We have shown again and again that Congress does not have the discipline to make the tough decisions required to control the growth of spending and reduce the deficit. We must find this discipline and begin to make these tough choices now, and that amendment would have given us the chance to do it. Unfortunately, it failed.

Mr. President, the American people understand that reducing spending is the true way to reduce the deficit in the long term. I am told every day through numerous letters, visits, and phone calls that my constituents want us to cut spending first. I believe that this is probably the experience of most of my colleagues as well.

I was elected to this great body to represent the interests of the constituents in Utah. Their clear message to me was to cut spending first and raise taxes later, if necessary.

In summary, Mr. President, the bill before us is a recipe for fiscal disaster and I will vote against it.

SENSE OF THE SENATE ON MORTGAGE REVENUE BONDS—AMENDMENT NO. 560

Mr. RIEGLE. Mr. President, I rise to support the amendment which expresses the sense of the Senate that mortgage revenue bonds [MRB's] and mortgage credit certificates [MCC's] should become a permanent provision of the Internal Revenue Code.

Earlier this year, I introduced S. 348, a bill that would make the MRB and MCC programs a permanent part of the Tax Code. This bill currently has 61 Senate cosponsors.

The Federal tax-exempt status of MRB's has enabled State and local housing agencies to finance home mortgages for first-time home buyers at rates below the market—sometimes as much as 2.5 percent below conventional rates. This means that a low or moderate income family can save up to $100 more on their monthly mortgage payment than if they had obtained conventional financing. This cost differential enables buyers who otherwise might not be able to get mortgage financing to obtain a loan at an affordable rate.

MRB's are targeted to families with the greatest need. MRB's are only available to buyers who have not owned a home within the past 3 years, earn 100 percent or less of the applicable median income, and buy a principal residence that does not exceed 90 percent of the average home purchase price. In 1992, the average income of an MRB borrower was 74 percent of median income. Furthermore, the National Council of State Housing Agencies reported that the average purchase price on an MRB-assisted home was approximately $64,000 as compared to a conventional first-time buyer average of $131,000.

Prior to its expiration in June, MRB's were the only Federal assistance targeted to first-time home buyers. During the past 15 years, MRB's have financed more than 2 million home purchases and accounted for 1 out of every 12 mortgages made to first-time buyers. MRB's finance approximately 130,000 new loans for first-time buyers annually.

In my home State of Michigan, MRB's and MCC's have enabled more than 50,000 families to buy homes. Furthermore, 57 percent of all MRB loans in Michigan were made in distressed inner city neighborhoods. The average income of persons assisted under the MCC program is $25,000 and the average income of persons assisted under the MRB single-family program is $23,000. I am proud to say that Michigan has been an innovator in using these programs to assist thousands of families realize the dream of home ownership.

MRB's are also powerful job-generating tools. In 1992, new homes financed with MRB loans produced 27,000 jobs and generated over $750 million in wages and tax revenues.

In the last decade, MRB's have been scheduled to sunset seven times, making administration and timing of bond issues extremely difficult and costly. The MRB program lapsed on June 30, 1992, underscoring the need for permanent extension.

We also need to permanently extend the mortgage credit certificate [MCC] program, which is part of the MRB program. Like MRB's, MCC's are also issued by State and local housing agencies to provide financial assistance to first-time home buyers. With an MCC, a home buyer may take a credit each year against his or her tax liability for a portion of mortgage interest paid.

I am a long time supporter of MRB's and MCC's and as a conferee on the budget reconciliation package, I will fight to ensure this provision becomes permanent.

I urge my colleagues to join me in expressing the sense of Senate that these two valuable programs—which promote first-time home ownership throughout the Nation—should become permanent.

Mr. LIEBERMAN. Mr. President, I rise to introduce a sense-of-the-Senate that mortgage revenue bonds [MRB's] and mortgage revenue certificates [MRC's] should become a permanent provision of the Internal Revenue Code.

Unfortunately, because we lack the money in this bill to pay for a permanent extension, this bill provides an extension, but only through June 1994. I am hoping that the conference will figure out a way to extend it permanently in the final package. At present, S. 348, which provides for a permanent extension, has 61 cosponsors. Last year, it had the bipartisan support of approximately 90 Senators.

The low-income housing credit was permanently extended. MRB's are related and address a similar market—affordable housing. MRB's provide mortgages for low-income, first-time home buyers. My State of Connecticut tells me that MRB's are crucial to its efforts to add to the affordable housing stock. Certainly, this is also the case in virtually every other State in the country.

MRB's have provided financing for more than 130,000 homes. The average MRB home buyer has an average income of $28,000 compared to $43,000 for conventional home buyers. Just as importantly, MRB's create jobs by the

thousands. In 1992, estimates indicate that MRB's provided 27,000 jobs. If made permanent, 37,000 new jobs would be created in 1993 and 63,000 new jobs would be created in 1994 and years thereafter.

This tax credit is tested and proven. It is a program that works and it does so using incentives in the private market rather than Government handouts. That, in my mind, is what the Government should do—encourage private markets to operate to the benefit of those who need assistance.

This sense-of-the-Senate simply asks the conferees to make their best effort to work it into the final bill. This provision has expired and been put back into the law seven times. For the sake of the people it serves and the jobs it creates, we need to make this program permanent and this is our opportunity. It's one of those amendments that just makes sense, and because of that, most of us in this Chamber have supported it multiple times.

Again, I urge my colleagues to join me in support of this instruction to the conferees.

SUPPORTING ENTERPRISE ZONE LEGISLATION

Mr. RIEGLE. Mr. President, I rise to support this amendment to express the sense-of-the-Senate that the Congress should adopt Federal enterprise zone legislation.

Last spring's violence in south-central Los Angeles was a clear indication of the persistent social and economic problems confronting America's distressed urban and rural communities. In addition to other provisions to assist distressed communities, the President's economic package called for a Federal Enterprise Zone Program to stimulate business development and job creation in poor neighborhoods.

This program is a crucial experiment in promoting economic opportunity in our inner cities and depressed rural communities. It is a central component of the administration's urban policy. The reconciliation bill passed by the House includes an expanded version of the Enterprise Zone Program. As a conferee to this bill, I will strongly support inclusion of an Enterprise Zone Program in the conference agreement that we reach on this legislation.

I have long supported enterprise zones as an experiment worth trying to stimulate economic development in our most distressed communities. Thirty-six States and the District of Columbia have enacted enterprise zone programs. A Federal Enterprise Zone Program—with targeted public investment enhancements to complement tax incentives—would strengthen these local efforts dramatically, increasing economic opportunity, and promoting healthy and vibrant communities.

At the start of this session, I introduced the Enhanced Enterprise Zones Act of 1993 with Senators KENNEDY, BIDEN, and KERRY as cosponsors. That legislation would have established 50 enterprise zones with tax incentives paired with public investment enhancements. The bill was modeled on the enhanced enterprise zone legislation that passed Congress as part of the Revenue Act of 1992 that was vetoed by former President Bush. I added the public investment enhancements included in that act in an amendment I offered along with Senator KENNEDY.

I added the public investment enhancements to the enterprise zone provisions crafted by the Finance Committee last year because I was convinced that enterprise zones as traditionally conceived are only half a strategy. And half a strategy is doomed to fail unless it is made whole.

In crafting the investment enhancements, I built on what I saw and heard in Benton Harbor, an inner-city community in my home State of Michigan. Benton Harbor is Michigan's only State-sponsored enterprise zone. The lesson that Benton Harbor has learned from its enterprise zone experience is one we here in Washington should heed as we craft Federal enterprise zone legislation: Tax incentives are helpful, but tax incentives alone will not provide an adequate new economic start for the poor and minority residents of our inner cities.

Benton Harbor's enterprise zone has been credited with attracting 100 new or expanded businesses and creating 700 jobs—but only a small fraction of those jobs have gone to the residents of Benton Harbor who are largely unskilled, poor, and minorities.

The people of Benton Harbor and of similar communities throughout the Nation must have the means to improve their job skills before they can fully take advantage of new employment opportunities. They also need better access to capital to start businesses of their own and to buy or upgrade their homes. Job skills and access to capital—along with targeted tax breaks for entrepreneurs—can be the foundation for true economic empowerment. In addition, distressed communities cannot begin to turn themselves around while most of the work force lives in dilapidated housing, has inadequate access to needed child care, and is afraid to work the streets at night because of high crime rates and a shortage of needed police.

The public investment enhancements included in our bill would provide enterprise zone communities with resources they need to address these barriers to economic opportunity. President Clinton's enterprise zone proposal also contains public investment enhancements. I would urge that public investment enhancements be enacted either at the same time as, or promptly following, enactment of tax incentives for enterprise zones.

Enterprise zone legislation is a beginning but it is not enough. Putting America's cities on an upward path demands a concerted national commitment to reach all distressed communities. We must make this commitment so the residents of our cities can become full participants in the social and economic mainstream of our Nation. We do this not just for reasons of equity and compassion but out of concern for our Nation's future competitiveness in the world economy. For, by the year 2000, 57 percent of the new entrants to America work force will be drawn from the minority populations concentrated in our inner cities. With world class work skills and economic opportunities to apply those skills, these new participants in our work force will ensure that America continues its leadership role in the world economy.

Mr. MCCAIN. Mr. President, I rise today on behalf of myself and Senators INOUYE, DOMENICI, and STEVENS, to offer an amendment that is specifically designed to meet the economic development needs on Indian reservations. The McCain-Inouye amendment provides a program of investment and employment tax incentives that can assist tribal efforts to attract private industry and capital, expand existing industry, and make the private sector a permanent source of economic development on Indian reservations. The McCain-Inouye amendment is identical to the Indian tax incentive language adopted by the Senate last year and included in H.R. 11.

Mr. President, I am well aware that anyone can raise a point of order against my amendment on the grounds that it is not germane. If the Senate wants to defeat my amendment by using such a point of order, that is fine with me. But let my colleagues understand that it is the Indian people to whom they will be doing the greatest harm.

Mr. President, Indian reservations throughout this Nation are characterized by staggering unemployment, nagging poverty, and huge infrastructure deficiencies. These conditions are simply a national disgrace. And it is most unfortunate—indeed shameful—that the Senate and House reconciliation bills and the administration's budget proposal fail to offer any meaningful form of economic development assistance to Indian tribes.

The Senate bill provides no tax incentives for urban, rural, or Indian areas. The House bill—which largely reflects the administration's empowerment zone proposal—provides for only one Indian empowerment zone. Only one. It is simply preposterous for anyone to believe—and for the Indian people to accept—that the Congress can't muster the will to assist more than one Indian tribe. It might interest my colleagues to know that there are over 500 federally recognized Indian tribes in 32 States across the Nation.

On the other hand, the McCain-Inouye amendment would apply to all federally recognized Indian tribes.

Let me emphasize, particularly to the Senators from the 32 reservation States, that it should come as no surprise that as a result of our longstanding failure to adequately support the development of viable Indian reservation economies Indian tribes have turned to other revenue-generating activities such as gambling and the consideration of proposals to locate commercial waste facilities on their lands.

What other choices have we given to native Americans? What does it say about us as a Nation when the only viable revenue-generating activities on Indian lands comes down to a choice between gaming or garbage?

What does it say about us as a Nation when the only choices for economic activity on Indian lands run the risk of being infiltrated by organized crime, or that unscrupulous parties can exploit Indian lands in the apparent belief that they can degrade the environment without regard to established environmental standards?

I challenge those Members who say they are concerned about the proliferation of Indian gaming to vote for the McCain-Inouye amendment.

I challenge those Members who are concerned about the potential for the introduction of environmentally unsound waste facilities on Indian lands to vote for the McCain-Inouye amendment.

I challenge those Members who say they want to help the poor to remember the Indian people, perhaps the poorest members of our society, and vote for the McCain-Inouye amendment.

We have a chance today to take a bold step to eliminate poverty on Indian reservations, to reduce welfare dependency, and to bring a renewal of the human spirit to the lives of Indian people who have been tragically scarred by generations of poverty and unemployment.

Mr. BRADLEY. Mr. President, 2 years ago, I introduced, with Senator LIEBERMAN and others, a bill to create a new way to pay for college by using the income that students will gain from college in order to pay for that education. Self-reliance loans were designed to help students of all ages take responsibility for their own education by providing loans to all students, regardless of their family's income, and allowing repayment as a percentage of the student's income after graduation.

After some twists and turns, with tremendous help from my colleagues Senator KENNEDY, Senator SIMON, and Senator DURENBERGER, we passed self-reliance loans in a tax bill, only to see the bill vetoed by President Bush. And last year, in the Higher Education Act reauthorization, the Senate guaranteed something like self-reliance as a part of the direct-lending demo, but only for students who attend one of a few hundred schools.

We were making progress toward guaranteeing income-contingent repayment of loans, but only slowly, until we found an ally in Bill Clinton. The President's promise that every student should be able to pay for college with national service or by repaying a small percentage of his or her income after graduation laid the groundwork for the sweeping reform of the student loan system that is one of the least-noticed provisions of this bill, but one that is central to restoring our economic future.

The most controversial piece of the reform is direct lending, a new process for providing loans under which the Federal Government would provide its own capital for loans directly, rather than subsidizing loans through private-sector lenders. This change has been a subject of long controversy, constructive negotiations, and finally a welcome bipartisan compromise, under which we would phase in the reform for only 50 percent of the Nation's students over 4 years. Senators PELL and KASSEBAUM deserve our thanks, along with the Senators I have mentioned, for their long work to make sure that direct lending is phased in at a measured pace to ensure that it makes student loans more efficient and less expensive.

We are concerned that the intense focus on direct lending has diverted attention from the other major reform in the bill, which will mean more to students and their families: income-contingent repayment of loans. By paying off their student loans as a percentage of income, ideally collected through the IRS, graduates will gain the freedom to pursue their dreams with payments automatically adjusted to their income. Students who would otherwise default will instead pay a manageable portion of their monthly income. Income-contingent repayment will also allow nontraditional students, returning to school after several years in the workplace or the home, to budget intelligently for their education based on the income they will gain from retraining.

Although I support the compromise developed in the Committee on Labor and Human Resources, the decision to phase in direct lending at only 50 percent of all colleges and universities by the fourth year also means that at the other 50 percent, students will not be guaranteed an opportunity to repay their loans as a percentage of income, without defaulting first. There are plenty of reasons to go slowly with direct lending, which is essentially a change in process, but no reason to deny half the Nation's students the advantaged of income-contingent repayment.

When we sponsored a new income-contingent loan program, self-reliance loans, 2 years ago, we worked from the assumption that direct lending was the best vehicle for income-contingent repayment, because a single lender could balance high- and low-earners to minimize risk in a way that a bank cannot. But this year, during the long debate on direct lending, we heard often from private-sector participants in the current system that they could, if Congress asked, provide income-contingent loans on their own. I believe Congress should take that offer seriously.

Today, Senator LIEBERMAN and I intended to offer an amendment to ensure that all students have access to income-contingent loans by establishing a straightforward test between direct lending and the current system of private-sector guarantees. Our amendment would have required every school not participating in direct lending to identify for students a lender who will offer loan repayment as a percentage of income, on terms comparable to those offered in direct lending. Any school that could not locate such a lender in the private sector would, by the fourth year of phase in, be incorporated into the direct lending program, without regard to the 50 percent cap on direct lending.

The test between direct lending and guaranteed private-sector loans would be clear and simple: If the private-sector can offer students repayment as a percentage of income, banks and secondary markets continue to have a role to play in student loans. If they cannot offer income-contingent repayment, then in our view, that is reason enough to phase in direct lending at all schools.

I am disappointed that the amendment we had intended to offer would be subject to a point of order under the rules, for no other reason than that it has no budget impact, an unfortunate technicality of the rules applicable to the budget reconciliation bill. But much work remains to be done on the student loan provisions in conference, because of the wide difference between President Clinton's proposal as passed by the House, which phases direct lending in at all institutions, and the Senate language, which includes the 50-percent limit along with other controversial changes to the current system. We would urge the conferees who support direct lending to look at this proposal as a responsible, middle ground between the two bills. And we would ask the Senate conferees who have advocated caution in shifting toward direct lending to look at this proposal as just the kind of clear-cut test between direct and guaranteed lending they have spoken for so eloquently.

We finally have a chance to ensure that all students, at any age, have the right not only to borrow for education regardless of their family's income, but to repay those loans as a percentage of the income they will gain from that

education. I hope my colleagues will join me in urging the conference to make this promise a reality as quickly as possible.

INCOME-CONTINGENCY REPAYMENT OPTIONS

Mr. LIEBERMAN. Mr. President, I had hoped that Senator BRADLEY and I would be offering an amendment today to expand access to income-contingent repayment of student loans. Unfortunately, under the rules of the budget reconciliation process this amendment would be subject to a point of order simply because it has no budget impact. I am pleased, however, that Senator BRADLEY and I were able to enter into a colloquy with the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, and that our proposal will be considered by the conferees. I am also pleased that Senator KENNEDY has committed to assisting us in expanding access to income-contingent repayment programs under provisions passed last year in the Higher Education Reauthorization Act.

In the last Congress I was pleased to join Senator BRADLEY as a cosponsor of the self-reliance loans legislation. The self-reliance bill was designed to accomplish several goals—provide assistance to middle-class families struggling to send their children to college; enable students to take responsibility for their education by borrowing under an income-contingent repayment program; and reduce the default rate by providing students with loans that they could afford to pay back.

The response to the self-reliance proposal from my constituents was overwhelming. They were and continue to be concerned that they would not be able to afford to send their children to college. They supported the notion that their children should be able to borrow money for college which they would be able to afford to pay back after graduation based on their income.

Although the Higher Education Reauthorization Act of 1992 greatly expanded access by raising the income limits on Pell grants and allowing students to borrow under the unsubsidized loan program regardless of whether their families meet the financial need criteria, families still worry that their children will be so buried in debt they will have to struggle to make ends meet even with a college education. This year the University of Connecticut is seeking a double digit tuition increase for the sixth straight year and around the country college applicants are facing rising tuition. We owe it to all these students and their families to ensure that students who borrow money to attend college do not find that their career and family choices are driven by unmanageable student loan payments. We also must ensure that we have constructed a system which prevents students from defaulting on loans by providing them with loans they can afford to repay.

We have made significant progress or income-contingent repayment over the past 2 years. The reauthorization act established a direct lending demonstration program which would have allowed students at 35 percent of the participating schools to repay their loans as a percentage of income. The student loan package included in the reconciliation package further expands the direct lending program to 50 percent of the colleges and universities and requires that their students have access to income-contingent repayment. I support this legislation, but I am disappointed that only 50 percent of students will have the option to repay their loans as a percentage of income. I believe this is an option to which all students are entitled. It is the best way to ensure that students are able to shoulder responsibility for their student loan burden and are, in fact, able to repay it.

The amendment we had planned to offer today would have guaranteed all students access to income-contingent repayment not just those who attend the 50 percent of schools in the direct lending group. We propose that all schools be required to offer students an opportunity to repay their loans on an income-contingent basis. Those schools not participating in the direct lending program would be required to identify a lender who will offer loan repayment as a percentage of income as an option. During the debate on direct lending, the private-sector participants in the student loan program asserted that they could, if asked to do so by Congress, provide income-contingent loans, without direct lending. This proposal would have given them an opportunity to do just that and provide those schools not participating in direct lending with income-contingent repayment programs for their students. In the event that a school cannot find a lender to provide this option to its students it would be incorporated into the direct loan program regardless of the 50-percent cap.

This program would not only provide students the vital option of repaying their loans as a percentage of income, but at the same time provide an important basis for a comparison of the ability to provide income-contingent repayment programs under direct lending and under the current system.

Income-contingent repayment provides us with a unique opportunity to curtail defaults because the amounts being paid will fairly reflect the graduate's earnings. It also protects against driving people out of public service because they cannot pay their loan bills—teachers will not have to move to Wall Street to pay their student loan bills; doctors will not have to opt for private practice rather than working in a community health center. Adults with families will also find it easier to return to school to complete their education or upgrade their skills. It is often difficult for adults to return to school because they have families to support and mortgages to pay. By guaranteeing them a loan repayment schedule which is tailored to their income level, this program allows them to return to the classroom and improve their ability to compete in today's job market.

We cannot afford to become a society where only the rich are able to attend college. Everyone in this Nation, no matter what their income level, should have the opportunity to pursue an education. An educated population is the most critical factor in enabling this country to succeed in a competitive international market. Income-contingent repayment can assist all students attending school. It is the necessary complement to the expanded access Congress enacted last year and the reduced costs and efficiency direct lending will bring. The recent high school graduate whose parents cannot afford tuition, the single mother struggling to support a family and get an education, the 40-year-old worker who needs to update his skills in order to remain in the work force, all will benefit from this program. And so will our country.

Mr. SIMON. Mr. President, I want to commend my colleagues for their leadership on this issue. Their close analysis of the details of the Student Loan Reform Act is impressive. I support and appreciate the constructive suggestions that they have made.

I, too, came to be a supporter of direct loans because of my interest in income-contingent repayment. Too many students find themselves forced by student debt into jobs or careers that do not fit their interests. Our Nation will be richer if those who are interested in teaching or community service are given that chance to contribute to society.

Past income-sensitive loan programs have not been successful because of the difficulty of confirming the income of borrowers as they make their payments. That is why collection through the IRS makes so much sense. President Clinton's student loan proposal moves us in that direction.

But my colleagues are right that, even under the legislation before us today, many students may be denied income-contingent repayment because there is no assurance that it will be offered by banks and secondary markets in the guaranteed loan program. The amendment before us makes sense: If students are being denied this important repayment option, then more schools should be allowed to become part of the direct loan program.

It is no secret that I was disappointed with the compromise that we reached in the Labor Committee on this issue. I will work in the conference committee to move closer to President

Clinton's proposal, so that all students have simpler, cheaper direct loans and an income-contingent repayment option.

Mr. BRADLEY. Mr. President, earlier this week, Senator LIEBERMAN and I informed our colleagues that we planned to offer an amendment to the Student Loan Reform Act, which the Labor Committee reported out as part of this reconciliation package.

Although we support the compromise developed in the Committee on Labor and Human Resources, the decision to phase in the most controversial reform, the shift to direct lending, at only 50 percent of all colleges and universities over 4 years also means that at the other 50 percent of schools, students will not be guaranteed an opportunity to repay their loans as a percentage of income, without defaulting first.

Our amendment would have ensured that all students have access to income-contingent loan repayment. It would have established a straightforward test between direct lending and the current system of private-sector guarantees. Our amendment would have required every school not participating in direct lending to identify for students a lender who will offer loan repayment as a percentage of income, on terms comparable to those offered in direct lending. Any school that could not locate such a lender in the private sector would, by the fourth year of phase-in, be incorporated into the direct lending program, without regard to the 50-percent cap on direct lending.

Mr. LIEBERMAN. Senator BRADLEY and I both came to the cause of student loan reform through our interest in allowing all students to pay for their education based not on their family's income, but on the income they will gain from that education on their own. Income-contingent loans make students responsible for their own education. By paying off their student loans as a percentage of income, ideally collected through the IRS, graduates will gain the freedom to pursue their dreams with payments automatically adjusted to their income. Students who would otherwise default will instead pay a manageable portion of their monthly income. Income-contingent repayment will also allow nontraditional students, returning to school after several years in the workplace or the home, to budget intelligently for their education based on the income they will gain from retraining.

Mr. BRADLEY. We have been informed that this amendment would be subject to a 60-vote point of order under the rules simply because it has no budgetary impact. While we understand the rationale for limiting amendments under reconciliation, it does not seem reasonable that the full Senate should not have a chance to perfect substantial new legislative initiatives reported out of committee. But understanding the rules, we will not offer the amendment.

I have heard no substantive opposition to this amendment, and I would urge the conferees on this section of the bill to consider our proposal carefully. There is a substantial difference between President Clinton's proposal as passed by the House, which phases direct lending in all institutions, and the Senate language, which includes the 50 percent limit along with other controversial changes to the current system. We would urge the conferees who support direct lending to look at this proposal as a responsible, middle-ground between the two bills. And we would ask the Senate conferees who have advocated caution in shifting toward direct lending to look at this proposal as just the kind of clear-cut test between direct and guaranteed lending they have spoken for so eloquently.

Mr. KENNEDY. I thank my colleagues for their thoughtful work on this amendment, and their leadership on income-contingent student loans, going back to the self-reliance loan proposal in the last Congress, which I cosponsored. I believe they have offered a promising new option which the conference should consider carefully.

I regret that the Senate rules do not allow us to take up this amendment under normal procedures. I have always been a strong supporter of income-contingent repayment and I have no doubt that a majority of Senators would support a guarantee that all students should have the opportunity to repay student loans as a percentage of income.

I will make two commitments to my colleagues. First, I would note that language in last year's reauthorization of the Higher Education Act requires lenders to offer students an income-sensitive repayment option, and gives the Secretary of Education the discretion to develop income-sensitive repayment schedules for lenders. The Department of Education has not yet written regulations for this provision, but I expect them to clarify that income-sensitive will mean repayment as a percentage of income, not simply extended repayment for borrowers with low incomes.

In the conference I will seek to clarify that the provision requiring lenders to offer income-sensitive repayment means that lenders must offer borrowers income-contingent repayment as one of their options. I will also seek to ensure that repayment under this requirement will be comparable to the income-contingent repayment plan that the Secretary will be required to develop for EXCEL accounts under direct-lending. With these modifications, all students will have the same income-contingent repayment terms whether they attend a school that is participating in direct lending or not.

Mr. BRADLEY. I thank the chairman of the Committee on Labor and Human Resources for his consideration of our proposal. I appreciate his commitment to link the income-sensitive repayment under current law with the income-contingent repayment to be developed for direct lending. That commitment goes a long way toward the intent of our amendment.

We continue to believe that we should also have a simple, clear test between direct lending and guaranteed private-sector loans. We have heard advocates of direct-lending argue that banks cannot offer income-contingent repayment, and we have heard private-sector participants in the current system argue that they would. If the private-sector can offer students repayment as a percentage of income, banks and secondary markets continue to have a role to play in student loans. If they cannot offer income-contingent repayment, then in our view, that is reason enough to phase in direct lending at all schools.

Mr. LIEBERMAN. We will continue to urge the conference to adopt the test proposed in our amendment. If private-sector lenders cannot comply with the income-contingent regulations put out by the Secretary of Education, then, we should move more quickly toward direct lending. If they can provide income-contingency, then we have no objection to a limited phase-in of direct lending.

We thank the chairman of the Committee on Labor and Human Resources for his continued efforts to make student loans work better for students and their families, and we look forward to working together as this provision goes to conference and finally becomes reality.

Mr. BRADLEY. Mr. President, I rise to enjoin my distinguished colleague from Michigan, Senator RIEGLE, in a colloquy on the childhood immunization program in this budget reconciliation bill. My friend from Michigan has worked diligently in a bipartisan way to fashion this program, and this effort has been commended by both sides of the aisle in the Finance Committee. But there remains one provision that needs to be resolved which has been referred to as the books and records provision. I ask my colleague from Michigan if it is his intention to make the necessary changes to this part of the bill when it goes to conference, so that this provision, which describes the process the Secretary will engage in to purchase vaccine, will be consistent with the Federal Acquisition Regulations, and will not permit unnecessary and unwarranted intrusion into the books of the manufacturers from whom the vaccine is purchased.

Mr. RIEGLE. I thank the senior Senator from New Jersey for his kind words and especially for his efforts in crafting this childhood immunization

program. I appreciate the opportunity to assure my distinguished colleague from New Jersey that what has come to be known as the books and records provision will be changed so that it will be consistent with the Federal Acquisition Regulations and protect against any unwarranted intrusions into the books of the manufacturers.

Mr. DODD. I appreciate the assurance that my colleague from Michigan has given to the senior Senator from New Jersey regarding the books and records provision of the childhood immunization program. I strongly agree with my colleague from New Jersey that the Federal purchase provision should be consistent with current Federal Acquisition Regulations. I see no justification for changing the rules in this particular case. This sort of expansion of authority would set a bad precedent.

I ask my colleague from Michigan whether the administration supports the change.

Mr. RIEGLE. I understand that Department of Health and Human Services agrees with this change.

THE OMNIBUS RECONCILIATION BILL

Mr. NUNN. Mr. President, I will vote against the Senate reconciliation bill. I give President Clinton high marks for recognizing the magnitude of the deficit and its impact on our country's future. I commend the efforts of the chairman, Senator MOYNIHAN, and the other members of the Finance Committee for their efforts to craft this bill. The bill is better than the House bill in the ratio of spending cuts to tax increases and in its overall deficit reduction. However, the bill does not significantly restrain the runaway growth in entitlement programs, provide incentives for economic growth, or place meaningful controls on discretionary spending.

I announce my opposition to this bill reluctantly. The Federal deficit is an issue of such importance that if we as a Nation do not begin to bring it under control we may be the first generation of Americans to sacrifice the standard of living of our children and grandchildren for our own.

Mr. President, last year Senator DOMENICI and I cochaired the Strengthening of America Commission. Our report concluded that in order to get America's house in order, the most important thing we need to do is lock in a long-term plan to get the Federal budget in balance. But we also concluded that deficit reduction alone is not enough. We need both deficit reduction and economic growth. We will not achieve that growth unless we shift the incentives in the Tax Code from consumption to investment. We must invest in people and technology, and we must completely overhaul the Tax Code to remove the bias against savings and investment that has contributed to our meager rates of saving and investment. Low saving leads to low investment. Low investment leads to low productivity, which causes us to be less competitive. The bottom line is that low investment leads to lower wage levels and less real income for American workers.

This bill, which largely reflects the President's plan, contains some positive elements which are similar to the Strengthening of America report.

The President recognizes that we have a serious deficit problem, and he is willing to put his reputation and his administration on the line to do something about it. He has tried to explain the costs of the status quo. He is trying to make people understand the tragic costs of doing nothing about the deficit and about health care. These problems require strong medicine. If all the focus is on how bad the medicine tastes, and none of the focus is on what the disease is doing to us, then we're not going to be able to pass a tough deficit reduction plan that will really control costs.

The President uses most economic assumptions, instead of assuming higher growth which would produce painless deficit reduction. I don't think many people realize how easy it is to just assume the problem away, or at least give the illusion of significant progress, by assuming higher economic growth. If you let me pick the economic assumptions, I can balance the budget every time. President Clinton did not take that easy road.

President Clinton recognizes that the deficit reduction requires us to address three primary elements together: spending cuts, tax increases, and economic growth. This combination is one of the reasons I opposed the Republican alternative last night. It had many elements I have supported—more spending cuts, entitlements caps, and extension of the so called firewalls between defense, international and domestic discretionary spending—but it perpetuated the myth that you can bring the budget into balance without raising additional revenues or providing economic growth incentives. The Republican alternative also would force the middle-class and below to again foot the whole bill for deficit reduction. In my view, that is not shared sacrifice. It does not meet the fairness test. There is no doubt the middle-class must do their share for deficit reduction, but it must not be a disproportionate share.

The President is also trying to deal with the social deficit at the same time as he is trying to reduce the budget deficit. I particularly applaud his emphasis on children.

Mr. President, these are the positive side of the President's plan, but they are outweighed in my view by the negative side of the reconciliation bill which we must vote on this evening.

The President has proposed a 5-year economic plan. This is too short a timeframe to really deal with the deficit in a decisive way. We need a 10-year plan, something similar to the CSIS Strengthening of America report, to commit both the legislative and executive branches to getting the budget in balance. The President knew he couldn't balance the budget in his first term, and he wisely did not promise what he couldn't deliver. But the problem is we don't have a clear goal to point to so that people know why we are raising their taxes and cutting spending. I think the advantage of a 10-year plan which would balance the budget is that you have a goal that people understand and can measure progress toward. Getting the deficit down to $200 billion by 1998 is not that kind of goal.

Second, the ratio of spending cuts to tax increases, although better than the House bill, is still too low, in my view. At best, it's 1-to-1, that is, $1 of spending cuts for $1 of tax increases. I think a 2-to-1 ratio, which is what OMB Director Panetta originally indicated they were looking for, and which was what we had in our Strengthening of America plan, is essential to keep the deficits from turning upwards in the late 1990s.

Third, this bill contains no substantive mechanism to control entitlement spending. There is no amount of tax increases that will get the deficit under control without wrecking the economy as long as entitlement spending—which is 50 percent of the budget—continues to increase at two or three times the rate of GNP growth. The arithmetic just doesn't add up.

This plan does have some cuts in entitlements, but the difficulty has always been in making sure we actually deliver the entitlement savings—and the revenue increases—that we are promising to make. The danger is that these savings won't materialize, which is what happened to the Gramm-Rudman-Hollings and the 1990 budget agreements. Particularly in the health programs, history has shown that the health care delivery system is ingenious in responding to cuts in one area by finding other ways to increase spending. Without an overall cap, and an enforcement mechanism, there is no way to enforce the mandatory savings in this bill. I think the worst of all worlds is to call for sacrifice, raise taxes, but then the lower deficits never materialize.

Earlier this year, I cosponsored an entitlement cap along with Senators DOMENICI, ROBB and DANFORTH. The House bill has a provision sponsored by Congressman STENHOLM of Texas, which the President agreed to, that tries to lock in the entitlement savings we are agreeing to in this reconciliation bill. It was not as strong as the Nunn-Domenici version, but it is a start. It is unfortunate that we could not strengthen the Stenholm provision in the Senate.

Without some controls on entitlement spending, we have no guideposts for health care reform.

Fourth, as I have made clear in my floor speeches and my amendments earlier this year, I have some serious concerns about the defense cuts we are undertaking. Defense represents about two-thirds of the net spending cuts in the President's plan. Congress has already signed up to large defense cuts but we still do not know what the administration will submit in their Bottom Up Review proposals on how the force can be restructurued to achieve these savings.

The fiscal year 1994 defense budget is increasingly likely to be cut below the level we all agreed to in the budget resolution. This is evidence of a critical problem. It is increasingly clear that the combination of forces in the administration and in the Congress—because of the fiscal squeeze and because of the strong desire to fund other programs—continues to erode the defense budget substantially below President Clinton's proposal. The defense budget is not being attacked directly. Instead, it is being mugged quietly in the dark alleys of the legislative process.

Senator DOMENICI and I offered an amendment earlier today that would remove the incentive for those who would put at risk a strong defense and raid the defense budget for other purposes. The amendment did not prevent a single Member from cutting the defense budget. The amendment did not exempt DOD from the normal scrutiny the Armed Services and the Defense Appropriations Subcommittee give the defense budget. The amendment would not have prevented a single Member of the Senate from offering an amendment to cut a program that he or she believed was ill advised. This amendment would have permitted defense cuts, so long as the savings go to reducing the deficit. And that really is what this entire bill is all about. I believe this is precisely the kind of legislation the President wants and needs to hold together his overall program and maintain a strong defense. I deeply regret that this firewalls amendment that Senator DOMENICI and I offered was not adopted.

Last, I want to highlight my concerns about the lack of savings and investments for the private sector in the Finance Committee bill.

Mr. President, in my opinion, there are two ways to approach our problem of low savings and investment through changes to the Tax Code. One is to try to make incremental changes in the current Tax Code, such as investment tax credits and lower capital gains rates.

The other approach is to undertake a fundamental restructuring of the entire Federal Tax Code, to replace our individual and corporate income tax systems with a new system that exempts savings and investment from taxation, while maintaining the progressivity of the income tax system. I am not talking here about adding a VAT on top of an income tax, I am talking about a tax on income that is consumed for individuals, and on cash-flow for corporations. Savings by individuals would not be taxed, and business investments would be expended, or written off, up front.

I strongly believe we must do major surgery on the Tax Code rather than applying more Band-Aids. The President proposed some incremental fixes to the current Tax Code, including an investment tax credit, the R&E tax credit, more generous capital gains and investment expending for small business, passive loss relief for the real estate industry, changes in the alternative minimum tax [AMT] for corporations and empowerment zones to create jobs in depressed areas. In my view, these would provide a modest but useful growth stimulus.

But the Finance Committee bill has scaled back or eliminated so many of the President's proposals that I am concerned that we now have very little in the way of private investment incentives left in this package. The broad-based investment tax credit is gone. The targeted capital gains provision for small business is gone. The capital gains rate for higher income taxpayers has actually been increased by adding a 10-percent surtax. I am not averse to taxing the rich were necessary for fairness, but I do not believe we help the poor and middle class by locking in capital and creating incentives for people not to sell assets that have appreciated.

We need to focus on the long term: What is our goal? Is this package moving us toward our goal or away from it?

In my view, our goal should be to make the fundamental changes necessary to strengthen the economy so that we are in a sound position for the 21st century to compete in the global economy and at the same time to deal with the retirement of the baby boomers.

To achieve this goal we must take two fundamental steps. First, controlling entitlement spending—that half of the budget that is on automatic pilot—and second, undertaking a fundamental overhaul of our tax system to encourage savings and investment.

Mr. President, fundamental change in the area of taxes and entitlement restraint cannot come without strong support by the American public, the Congress and by the President. Without support from the centrists of both political parties, it will not happen.

When the Republican party refuses to participate—when most Republicans refuse to find a single tax increase they will support—when the Republican party retires to the sideline in the hope they will benefit in the next election—then we end up in the kind of situation we face today. We have a package that was designed to pass with only Democratic votes. The result is that the balance in the Congress shifts to the left and this economic package is a result of that shift. I cannot support this result.

Mr. GRASSLEY. Mr. President, the other side's characterization of the ratio of taxes-to-spending cuts is not the only erroneous information they are disseminating. They also have said repeatedly that our side failed to offer amendments in the Finance Committee to lower spending. This is a factual error, Mr. President. There were two such amendments offered by Republicans. I offered one myself.

Also erroneous is the charge that this bill does not hurt the middle class. This is a bold-faced misstatement of fact. This bill does not only hurt the middle class, it hits them square on the head with a two-by-four.

Just look at what it does to small business. It sharply raises marginal tax rates on income and capital gains.

It also raises taxes on anyone who drives a car; anyone who flies the friendly skies; anyone who farms; and, retired couples on Social Security who make more than $40,000.

Perhaps the hardest hit of the middle class is not in their pocketbooks, but in their trust in Government. This President promised them he would cut their taxes. And he said if the deficit got larger, he wouldn't raise their taxes—he would cut new spending to make up the difference.

Did he do that?

Did he do that, Mr. President?

No, he did not. And so this breach of faith is what hurts the middle class most. It's not just the Federal deficit that is soaring. So is the trust deficit.

So, Mr. President, anyone who tries to kid himself and says this bill does not hurt the middle class is in for a rude awakening. Because this bill will hit this country right in its pocketbook, and right in its craw. And they'll know exactly which party to blame.

Let me just say to my colleagues: if you think this is the cure for what ails the Nation, then you're destined for a long-term bout with political psychosis.

Mr. President, as a member of both the Finance Committee and the Budget Committee, I've been involved in the current budget reconciliation process from the beginning. I must say, this has been one of the most disappointing and aggravating budget processes I've dealt with as a Member of Congress.

This President's budget package has been a constantly moving target of ups and downs and indecisions—and one special interest deal after another.

First, the President compaigned on the themes of a middle-class tax cut and spending reductions. He attacked those advocating tax hikes, including a

backbreaking gas tax. That helped get him elected, although by a less-than-impressive margin. Once in office, his promises were abandoned, and now we have what will be one of the largest tax increases in history, along with historical spending increases. It's no wonder the President's approval ratings are at an historical low.

Last year, I ran for reelection at the same time Mr. Clinton ran for President. In my campaign, among other issues, I ran against deficit spending and against tax increases. My opponent attacked me over and over on my positions. Well, the people of Iowa sent me back to Washington with an historical 72-percent of the vote. My mandate in November was to cut spending and hold down taxes, and that's what the people back home are still telling me in or overwhelming numbers. And unlike some, I feel like I have an obligation to do what I promised the people I was going to do.

The majority may complain about how they had to produce a bill on their own. Well, we Republicans have been offering suggestions and alternatives throughout the process, and even talking with the President up to a day or so before the Finance Committee met on how to make this process work. It's clear to me that if the President's budget reflected the promises he ran on, we Republicans would be strongly supporting his package.

Unfortunately, this bill was put together in secret behind closed doors. All too often, this has become a dangerous way to legislating that leads to problems down the road.

To the finance chairman's credit, there have been some important improvements made by him in this bill compared to the House bill. The onerous barge tax has been drastically reduced and more spending cuts have been made. The Social Security tax in the bill has been improved, but it's still a tax on middle-income retirees, and I hope to help address that in more detail later.

But, here we are, still with more than $3 in tax increases to every $1 in spending cuts. And, remember that most of the overall cuts don't even come until after the President's term is over.

Now, contrary to what the President pledged in his campaign, we have another backbreaking gas tax before us, as the President put it in the campaign. This is a consumer tax that will be especially hard on rural America. Many of us till haven't learned the lesson from the disastrous 1990 tax bill. As I've said before, if Reagan-Bush economics were called voodoo, then this package is surely deja voodoo.

It's my hope that the Congress will finally listen to the people who elected them by starting over and cutting spending first, not sometime in the distant future, it even then. I hope that, eventually, we will all be able to work together toward this goal.

Mr. EXON. Mr. President, I want to take a few minutes to express my thoughts and views on this very important bill.

Like many of my colleagues, I previously served as Governor before I was elected to the U.S. Senate. As Governor of Nebraska, I had to balance the State's budget on an annual basis and frankly I have always believed that our Federal Government should be operated much the same.

Despite my many documented attempts to stop the continued mad dash of additional spending resulting in trillions of dollars in additional borrowing and billions of additional interest expense, we continue to travel that road. Republicans and Democrats alike have talked a good talk but, despite an almost universal agreement that our deficits are too large, have been stunningly unable to seriously address the issue.

If there is one thing we should be able to agree upon, it is that President Clinton did not create the problem. Instead, he inherited a deficit estimated to be well over $300 billion. Coming from a Governor's office himself, that must have come as somewhat of a shock. Nearly 20 percent of the budget he inherited depends on borrowed money.

Mr. President, I have talked to many Nebraskans about our Federal fiscal situation and I have found that many people believe that our deficit is our only problem. That is, if we get our budget balanced, we are out of the woods. Nothing could be further from the truth.

For in addition to a $300-plus billion deficit, President Clinton inherited a national debt of over $4 trillion. To put some perspective on that number, President Reagan inherited a debt of under $1 trillion in 1980. President Bush inherited a debt of about $2.7 trillion. If President Clinton only had a debt of $1 trillion, or even $2 trillion, he would have a problem but certainly not a near crisis as we now have.

National debts are not merely an accounting ledger. Total interest payments, which were not a major problem for President Reagan, are a major problem for President Clinton. As he noted in his economic address, interest payments are nearly 15 percent of his budget and will surely rise to 20 percent of his budget unless changes are made. Money spent on interest cannot be spent on new programs. It can't even be spent on old programs. It is just spent.

So, when President Clinton announced his economic plans several months ago, I found his actions to be highly responsible and commendable. If he did not know then, he knows now that solving our Federal budget is somewhat like moving a hornet's nest. Everywhere you poke, you are going to get stung right back. We reached this point exactly because it has been the path of least resistance, not because the hard choices have been faced.

Despite my respect for his leadership, I was disappointed with our President's plan in many respects. I thought then, and still do, that by only addressing our deficit spending with a deficit reduction package our President failed to direct enough of our public's attention on our $4 trillion debt. Our President's proposals relied too heavily on tax increases, particularly by including a new Btu tax, and did not adequately address spending. Although the plan, in general, called for shared sacrifice as it should do, it did not pass a fairness test in my view in some respects.

In the many weeks that have passed since our President announced his plans, Congress and the American people have greatly influenced its contents. This has not been a pretty process but that is how our Government works. I have stirred up a few hornets myself. The end result, however, is that we are now working on a product that is much different from what was proposed by our President and, in my view, much better.

The most important change is of course that the Btu tax is out of the package. This is not the time or the place for such a tax. It would have had a major impact on middle-income Americans and while it may be possible to craft such a tax without unfairly hurting agriculture, I am not convinced that had been done.

By eliminating the Btu tax and replacing it largely with additional spending cuts, we have greatly improved the ratio of spending cuts to tax increases in our overall package. We are now better than $1 of spending cuts for each $1 of tax increases. In my view, some tax increases are appropriate but only if they are used to leverage spending cuts.

Here are some facts. We spend money in three categories of our budget; discretionary, entitlement, and interest. We have a discretionary spending freeze in place for the next 5 years. It is enforceable through the budget resolution already passed. We hope to accept the entitlement spending cap as passed by the House of Representatives as well. In the future, we will have much better budget enforcement than ever before.

Nevertheless, I am not convinced that we have done all that we possibly can do to hold the line on spending but this bill surely is a major step in the right direction. To say that it is not is simply ignoring the facts.

Our President's plan did indeed include tax increases. But, the Senate Finance Committee reduced the taxes in this bill as compared to the President's plan.

The Btu tax has been dropped and its substitute, the 4.3-cent transportation

fuels tax, is much less burdensome on our average citizen. The personal tax increases fall most heavily, as they should in my view, on those with incomes of over $200,000, with nearly $4 out $5 in taxes coming from those individuals.

I am particularly pleased that this bill includes my proposal to make the proposed increase in Social Security taxation fall only on those who are most able to afford such an increase. By excluding those couples whose income including Social Security is less than $40,000 from paying additional taxes, the proposal now passes the fairness test and many of the additional Medicare cuts that would have hurt rural health care and hospitals have been restored.

Contrary to those who claim that our elderly are greedy and irresponsibly spending the next generation's money, I have found that some of the strongest support for deficit reduction and responsible spending comes from our seniors and that they are willing to pay their fair share.

And, finally, I am very pleased with the improvements to our President's plan as it affected agriculture. The Btu tax has been eliminated. The huge increase in the barge tax has been completely dropped. Along with the Btu tax, that tax would have had a devastating effect on our farmers. The irrigation surcharge has been killed. There is now no energy tax on agriculture, period.

Farm programs are the one area of direct spending that has decreased in recent years. Agriculture has already taken hits and the additional hits that our President recommended were unfair. This bill has agriculture cuts; however, the cuts are about half of those recommended by the President. I successfully pushed in our earlier Budget Committee deliberations to ensure that agriculture was treated fairly.

Another improvement as a result of this bill regards my budget enforcement proposal to help ensure that we do not exceed our annual deficit and national debt projections. My proposal has now been endorsed by the Clinton administration, the Senate majority leader, and the chairman of the Senate Budget Committee. A majority of the Senate just voted for it. Unfortunately, Senate Republicans defeated it because of the requirement for 60 votes rather than 50 votes. However, the issue has gained important endorsements and I will see it through.

In sum, Mr. Ross Perot has said that the devil is in the details and the details of this bill are not perfect but have certainly been improved over the past few weeks. That process can and should continue in the conference with the House of Representatives.

As I indicated earlier, we have two problems, a $300 billion deficit and a more serious $4 trillion debt. President Clinton's opponents have derisively claimed that his budgets will add over $1 trillion to our national debt. While that is technically correct, it is also misleading. President Clinton never had a choice between a balanced budget and one with a $300 billion deficit. He was handed the latter.

President Clinton's choice, and the one now facing our Congress, is between a continuation of the borrow and spend policies that have been mutually beneficial for both political parties over the past 12 years or to begin the difficult and tough process of balancing Government spending with Government revenues. If we fail to follow President Clinton's lead, we will add $500 billion more to our debt over the next 5 years.

One of the lies of the past several years has been that we are going to solve our Federal fiscal problem without asking some Americans to sacrifice. The only people deficit reduction was going to hurt would be the Federal employees who lost their jobs. President Clinton was the first President that I can recall who laid it on the line and told the American people that sacrifices would be needed across the board.

The issue is no longer whether sacrifices are necessary, they are, but whether the sacrifices proposed are shared and fair. Everyone has their own view of what is fair and reasonable but this bill, while not perfect, comes closer than any other plan I have seen. The new taxes fall most heavily on those who can most afford to pay. The spending cuts are not isolated to any one group.

I remain very concerned, however, that we have not done enough. Even with this bill, our deficit spending decreases to only slightly under $200 billion. Our debt will continue to increase. I hope that the American people do not think that we have solved both our deficit spending and Federal debt problems when in fact we have at best only solved part of one. Even with those problems, this is a very important bill for the Congress, our President, and the American people. If this bill fails, we fail and the country will suffer in the long run.

President Clinton took the first step with his proposals and Congress has taken the next step by changing and improving his plan. There remains steps to be taken, such as cutting the space station and superconducting super collider, but those cannot be taken as part of this legislation. But, when we begin considering appropriation bills later this year, I will keep cutting and cutting and cutting.

For today, I believe we must be responsible to do something. We elected a new President. We have debated his package for months. We have made many significant changes to his recommendations. And now is the time to act. I will vote for this bill and urge my colleagues to do the same.

Mr. DOMENICI. Mr. President, it is late and I don't want to prolong the time, but there is an issue I need to discuss briefly. Under the Budget Act there is a provision known as the Byrd rule. This rule was designed to eliminate extraneous, nonbudgetary type provisions from a reconciliation bill.

Compared to past reconciliation bills—while I dislike the overall policy in this one—it is relatively free of extraneous material. But there are a few items.

I am submitting a list of those to the RECORD tonight—and putting the Senate on notice that if the conference comes back with these items—assuming the bill still makes it to conference—I will exercise my rights to bring the point of order against those items and they will be removed from the conference report. The conference report will then have to go back to the House and be voted on again.

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

POTENTIALLY EXTRANEOUS PROVISIONS IN SENATE-REPORTED RECONCILIATION BILL

Provisions Without Deficit Effect (Byrd Rule §313(b)(1)(A))

TITLE I—AGRICULTURE

Subtitle B—Restructuring of Loan Programs

Sec. 1201. Electric and telephone loan programs.

TITLE IV—COMMUNICATIONS AND TRANSPORTATION

Subtitle A Spectrum Allocation and Auction

Sec. 403. National Spectrum Planning.

Sec. 404. Recommendations for Reallocation of Certain Frequencies.

Sec. 405. Withdrawal or Limitation of Assignment to Federal Government Stations.

Sec. 406. Allocation and Assignment of Frequencies by the Commission.

Sec. 407. Authority to Reclaim Reassigned Frequencies.

TITLE VII—MEDICARE, MEDICAID, AND OTHER PROGRAMS

Subtitle A—Medicare

Sec. 7224(b)(2). Intraocular lenses.

Subtitle B—Medicaid Program

Sec. 7422(c). Requirements on nursing facilities.

Subtitle D—Miscellaneous Provisions

Sec. 7702. Extension of, and authorization of appropriations for, Trade Adjustment Assistance program.

Sec. 7801. Childhood findings.

Sec. 7802(a). Recommended pediatric vaccines.

Sec. 7802(e). Coordination with maternal and child health programs.

Sec. 7802(i). Transition rule.

Sec. 7803. Section 2110(c)(2) Exemption from GRH.

Sec. 7952. Use of Harbor Maintenance Trust Fund amounts for administrative expenses (subject to appropriations).

TITLE XIV—FINANCE REVENUES

Sec. 8174. Certain transfers to the Railroad Retirement account made permanent.

TITLE XII—COMMITTEE ON LABOR AND HUMAN RESOURCES

Subtitle A—Student Loan Provisions

Chapter 3—Conforming Amendments

Subchapter A—Conforming Amendments to the Higher Education Act of 1965

Sec. 12047. Authority to Use Optically Imaged Documents.

Subtitle B—Public Health Service Act Provisions

Sec. 12102. Physician Ownership Study.

Sec. 12105. Federal Tort Claims Amendments.

Mr. MITCHELL. Mr. President, in every human endeavor, there comes a time for action, a time when the words must end and the deeds begin. For those who have so loudly endorsed making real spending cuts and making real deficit reductions, that time is now.

How did we get here? When President Clinton took office, he inherited a national debt that, in 12 years, had increased from $900 billion in 1981 to over $4 trillion today. That's a fivefold increase in the debt in 12 years.

President Clinton came into office determined to change that pattern, to halt the ever-escalating deficits, the ever-growing debt, the soaring interest costs that are coming out of the pockets of every working American family. He came into office to stand up, show some courage, and deal with a serious national problem.

It's not surprising that those comfortable with the status quo have done everything in their power to oppose his effort, to try to pick this bill to pieces bit by bit, to misrepresent what it is, to distort who will pay, to misstate the facts.

The truth is that restoring fiscal responsibility is not easy or comfortable or painless for anyone.

The deficit reduction plan before us will help to restore fiscal responsibility. The deficit reduction plan totals $500 billion over the next 5 years, the largest, most comprehensive, most balanced package of spending cuts and revenues offered by any President.

I urge everyone who truly wants to reduce the deficit to vote for this proposal.

It contains explicit, clear and tough proposals for spending cuts and needed revenues.

The plan is balanced and fair. Everyone is asked to share the burden. Everyone is asked to bear a fair share, according to their ability. Nearly 80 percent of the revenues will be paid by those earning more than $200,000. The average share for families earning between $40,000 and $50,000 a year is about $10 a month, about three-tenths of 1 percent of their income.

Those able to pay more are asked to pay more. Those unable to pay much more aren't asked to pay much more. Those unable to pay anymore at all aren't asked to pay anymore at all. As a result, families with incomes under $30,000 will see a net tax reduction.

I repeat: No other plan asks all Americans to share, according to their ability, in the goal of restoring broad economic growth and prosperity to working people.

The choice the Senate faces—the choice America faces—isn't between this plan and a better plan. This is not a choice between credible alternatives. It's this deficit reduction plan or no deficit reduction plan.

The opponents of this plan have one purpose: To embarrass and defeat the President.

But this President is the first one willing to step up to his responsibility and to stand up for a realistic program that will cut the deficit. He is not ducking the responsibilities of leadership.

It is now time to fish or cut bait.

A vote for this bill is a vote to reduce the deficit by $500 billion. A vote against this bill is a vote for more of what we've had for a decade—skyrocketing deficits, rising debt, a bleak future for our people.

This is an honest, balanced and serious proposal. It is the largest single deficit reduction package offered by any President. It deserves the support of the Senate—not for the President, but for the American people.

Mr. DOLE. Mr. President, we are coming to the end of what could turn out to be the most important debate of the year. There's no doubt in my mind that it is a debate that will stand as a defining issue for many years to come. When taxpayers want to find out who was on their side, they'll take a look at this vote and they'll know who earned their trust, and they'll know who earned a place on "Mount Tax-More." Because the choice couldn't be any clearer: a vote for President Clinton's plan is a vote for classic, big time tax-and-spend Government.

Make no mistake, if you like big taxes and big spending, then President Clinton's plan is for you. If you like sending more of your hard earned tax dollars to Washington, then President Clinton's plan is for you. If you like the biggest tax increase in history, then you can start your celebration.

But if you're sick and tired of the status quo, sick and tired of big Government and big taxes, and sick and tired of all those phony promises about change and reform, then you're pretty mad right now about what's going to happen in the Senate tonight.

When the American people look back at this vote, they will remember that Senate Republicans offered a much better approach to deficit reduction. That's why we called our alternative the taxpayers alternative. It was a main street, common sense approach: it said, cut spending first. It was a taxpayer-friendly solution: it said, cut spending first. It was an antidote to the Clinton administration's rampant tax fever: it said, cut spending first.

Unfortunately, 54 Senate Democrats voted yesterday to defeat our taxpayers alternative. I guess old tax and spend habits are hard to break.

It's too bad. Our cut-spending-first plan contained $329 billion in tough, enforceable spending cuts, and not one dime in tax increases. Without any tax increases, our plan reduced the deficit more than the President's plan by 1998. In fact, beginning in 1998, our proposal would have continually produced lower deficits than the President's plan. And, in stark contrast to the Democrats' tax-now cut-later plan, our cut-spending-first plan would move toward a balanced budget in future years.

That's the kind of economic plan that would restore confidence in our free enterprise system. But when I ask businessmen and women across the country how the President's policies have affected their decisions to hire new workers, invest in new equipment or expand, they're quick to tell me they can't afford to expand or hire new workers.

Earlier today, I mentioned Les Brandt of Topeka, KS, a small businessman who told me he's not going to expand his business this year. Mr. Brandt owns Modern Air of Topeka, an eight-man operation in the heating and air-conditioning business. But he says he won't expand because, and I quote, "Decisions in Washington could take the whole business away." In other words, he's heard about the Clinton tax agenda, and he's scared to death.

And it's not only Kansas. Employers and investors all across the Nation are worried. Just ask the good folks at Superior Technical Ceramics Corp., a 100-year old family-owned business in St. Albans, VT. According to Earlyn Church, vice president of Superior, of the $300,000 the company made in profits last year, it invested $160,000, that's more than half of its profits, into a profit-sharing plan for their 90 employees, working Americans who are probably surprised to learn that they are now considered rich by the President. With the new Clinton tax increases, the company will be unable to contribute anything this year.

It's no wonder so many businesses say the President's tax plan will force them to lay off workers, and scale back their operations.

And remember, these employers—these job creators—are worried that the world record Clinton tax plan is just the first installment. They realize that even if they manage to survive this first tax avalanche, they could be buried alive by the soon-to-be-released White House health care plan, another massive tax solution to a national problem.

Mr. President, let's set the record straight. This deficit reduction effort has been a one-way street; a one-party monopoly, designed to lock out Republicans, lock out competition, and to

lock out the taxpayers. This process has been a one-party affair—if you're not a congressional Democrat, don't bother coming to the party, you're not invited. Meanwhile, a disgusted main street America watched from afar, and didn't like what it saw.

Let the record show that there were many Republicans who made it clear to the President, Secretary Bentsen, Chairman MOYNIHAN, and others, that Republicans were ready and eager to work with the President to get the deficit under control.

But time and time again, our offers to sit down to hammer out a bipartisan deficit reduction plan were rejected.

So here we are, paralyzed by Democratic gridlock. It's the kind of take-it-or-leave-it gridlock which has infuriated the American people, the kind of paralysis that freezes out all alternative solutions. The Democrats have gone back to the future—gridlocking back to the days of good old-fashioned tax and spend. They love it.

The choice tonight couldn't be more clear: Senators can vote for President Clinton's recordbreaking tax increase, or they can cast a vote for America's taxpayers, and send a wake-up call to the White House.

The President has tried to make this a defining moment of his Presidency. He's right, it is and will be for years to come: he's already earned his place on "Mount Tax-More."

The taxpayers are watching. When the votes are counted, they'll remember who was on their side.

Mr. MITCHELL. Mr. President, this has been a very long 2 days and a difficult and controversial bill. But I ask all my colleagues to continue to conduct the proceedings of the Senate with dignity and civility and we can get through this in a reasonable time.

I am advised the amendment will not be offered.

I would like now to ask the distinguished chairman of the committee and managers of the bill to proceed so we can bring this matter to a conclusion.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 2264, the House companion bill, all time be yielded back, the text of S. 1134, as amended, be substituted in lieu thereof, the bill be advanced to third reading, and that a vote occur on the passage of the bill without intervening action or debate.

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

The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Republican leader be recognized for 1 minute, following which I be recognized for 1 minute.

The VICE PRESIDENT. Without objection, it is so ordered. The Republican leader is recognized.

Mr. DOLE. Mr. President, the choice tonight could not be more clear. Senators can vote for President Clinton's recordbreaking tax increase or they can cast a vote for America's taxpayers and send a wake up call to the White House and to the Congress. The President has tried to make this a defining moment of his Presidency. He is right. It is and will be for years to come. He has already earned his place on Mount Taxmore.

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. Mr. President, for 12 years we have laughed as the national debt has gone up. We have had jokes, not deeds. We have had talk, not action. It is now time for action.

This Chamber has been filled to overflowing with speeches about the need to reduce the deficit and there is only one way to reduce the deficit and that is to vote for this package. There is no other alternative. No other serious or credible alternative has been presented in either Chamber. If you mean to reduce the deficit you must vote for this package.

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

The VICE PRESIDENT. The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington, [Mrs. MURRAY] is absent because of illness.

I further announce that if present and voting,the Senator from Washington [Mrs. MURRAY], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania, [Mr. SPECTER] is absent because of illness.

The yeas and nays resulted, yeas 49, nays 49, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—49

Akaka	Dodd	Kerrey
Baucus	Dorgan	Kerry
Biden	Exon	Kohl
Bingaman	Feingold	Leahy
Boren	Feinstein	Levin
Boxer	Ford	Lieberman
Bradley	Glenn	Mathews
Breaux	Graham	Metzenbaum
Bumpers	Harkin	Mikulski
Byrd	Heflin	Mitchell
Campbell	Hollings	Moseley-Braun
Conrad	Inouye	Moynihan
Daschle	Kennedy	Pell
Pryor	Rockefeller	Wellstone
Reid	Sarbanes	Wofford
Riegle	Sasser	
Robb	Simon	

NAYS—49

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Nunn
Chafee	Hatch	Packwood
Coats	Hatfield	Pressler
Cochran	Helms	Roth
Cohen	Hutchison	Shelby
Coverdell	Jeffords	Simpson
Craig	Johnston	Smith
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
DeConcini	Lautenberg	Wallop
Dole	Lott	Warner
Domenici	Lugar	
Durenberger	Mack	

NOT VOTING—2

Murray	Specter

The VICE PRESIDENT. On this vote, the yeas are 49, the nays are 49. The Senate being equally divided, the Vice President votes in the affirmative and the bill (H.R. 2264) is passed.

The bill (H.R. 2264), as amended, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2264) entitled "An Act to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

TITLE II—COMMITTEE ON ARMED SERVICES

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

TITLE IV—COMMUNICATIONS AND TRANSPORTATION

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

TITLE VII—FINANCE COMMITTEE RECONCILIATION PROVISIONS RELATING TO MEDICARE, MEDICAID, AND OTHER PROGRAMS

TITLE VIII—FINANCE COMMITTEE REVENUE PROVISIONS

TITLE IX—COMMITTEE ON FOREIGN RELATIONS

TITLE X—COMMITTEE ON GOVERNMENTAL AFFAIRS

TITLE XI—COMMITTEE ON THE JUDICIARY

TITLE XII—COMMITTEE ON LABOR AND HUMAN RESOURCES

TITLE XIII—VETERANS' PROGRAMS

TITLE XIV—ENFORCEMENT PROCEDURES

TITLE XV—MISCELLANEOUS PROVISIONS

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Wheat program.
Sec. 1102. Feed grain program.
Sec. 1103. Upland cotton program.
Sec. 1104. Rice program.
Sec. 1105. Dairy program.
Sec. 1106. Tobacco program.
Sec. 1107. Sugar program.
Sec. 1108. Oilseeds program.
Sec. 1109. Peanut program.
Sec. 1110. Honey program.
Sec. 1111. Wool and mohair program.

Subtitle B—Restructuring of Loan Programs

Sec. 1201. Electric and telephone loan programs.

Subtitle C—Food Stamp Program

Sec. 1301. Uniform reimbursement rates.

Subtitle D—Agricultural Trade

Sec. 1401. Market promotion program.
Sec. 1402. Acreage reduction requirements.
Sec. 1403. End-use certificates.
Sec. 1404. Sense of Congress regarding the export of vegetable oil.

Subtitle E—Miscellaneous

Sec. 1501. Federal crop insurance.
Sec. 1502. Environmental conservation acreage reserve program amendments.
Sec. 1503. Admission, entrance, and recreation fees.
Sec. 1504. Sense of the Senate regarding deficit reduction.

Subtitle A—Commodity Programs

SEC. 1101. WHEAT PROGRAM.

Section 107B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/92 PROGRAM" and inserting "0/85 PROGRAM"; and

(2) by inserting after "8 percent" both places it appears in clause (i) the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 and 1995 crops (except as provided in clause (vii)),", and by adding at the end of the subparagraph the following new clause:

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1994 and 1995 crops of wheat, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

"(bb) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to conservation uses; or

"(II) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to alternative crops as provided in subparagraph (F).".

SEC. 1102. FEED GRAIN PROGRAM.

(a) 0/92 PROGRAM.—Section 105B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/92 PROGRAM" and inserting "0/85 PROGRAM"; and

(2) by inserting after "8 percent" both places it appears in clause (i) the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 and 1995 crops (except as provided in clause (vii)),", and by adding at the end of the subparagraph the following new clause:

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1994 and 1995 crops of feed grains, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

"(bb) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to conservation uses; or

"(II) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to alternative crops as provided in subparagraph (F).".

(b) TECHNICAL AMENDMENT.—Section 105B(c)(1)(B)(iii)(IV)(bb) of such Act is amended by striking "clause (i)(I)" and inserting "clauses (i)(I) and (ii)(I)".

SEC. 1103. UPLAND COTTON PROGRAM.

(a) 50/92 PROGRAM.—Section 103B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1444–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/92 PROGRAM" and inserting "50/85 PROGRAM"; and

(2) by inserting after "8 percent" both places it appears in clause (i) the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 and 1995 crops (except as provided in clause (v)(II)),", and in clause (v)—

(A) by striking "(v) PREVENTED PLANTING.—If" and inserting the following:

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—

"(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of upland cotton, if"; and

(B) by adding at the end the following new subclause:

"(II) 1994 AND 1995 CROPS.—In the case of each of the 1994 and 1995 crops of upland cotton, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to conservation uses; or

"(bb) the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to alternative crops as provided in subparagraph (E).".

(b) ACREAGE LIMITATION PROGRAM.—Section 103B(e)(1)(D) of such Act is amended by inserting after "30 percent" the following: "for each of the 1991 through 1994 crops, and 29½ percent for the 1995 crop".

SEC. 1104. RICE PROGRAM.

Section 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/92 PROGRAM" and inserting "50/85 PROGRAM"; and

(2) by inserting after "8 percent" both places it appears in clause (i) the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 and 1995 crops (except as provided in clause (v)(II)),", and in clause (v)—

(A) by striking "(v) PREVENTED PLANTING.—If" and inserting the following:

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—

"(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of rice, if"; and

(B) by adding at the end the following new subclause:

"(II) 1994 AND 1995 CROPS.—In the case of each of the 1994 and 1995 crops of rice, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to conservation uses; or

"(bb) the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to alternative crops as provided in subparagraph (E).".

SEC. 1105. DAIRY PROGRAM.

(a) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in subsection (c)(3)—

(A) in the first sentence of subparagraph (A), by striking "The Secretary" and inserting "Subject to subparagraph (B), the Secretary";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) GUIDELINES.—In the case of purchases of butter and nonfat dry milk that are made by the Secretary under this section on or after the date of enactment of this clause, in allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

"(i) offer to purchase butter for more than $0.65 per pound; or

"(ii) offer to purchase nonfat dry milk for less than $1.034 per pound."; and

(2) in subsection (h)(2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) during calendar year 1996, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of calendar year 1996 in the manner provided in subparagraph (B).".

(b) SALE, MARKETING, OR USE OF BOVINE GROWTH HORMONE.—Section 204 of such Act is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) SALE, MARKETING, OR USE OF BOVINE GROWTH HORMONE.—

"(1) DEFINITION OF BOVINE GROWTH HORMONE.—As used in this subsection, the term 'bovine growth hormone' means a synthetic growth hormone produced through the process of recombinant DNA techniques that is intended for use in bovine animals.

"(2) PROHIBITION ON SALE, MARKETING, OR USE.—During the period beginning on the date of enactment of this paragraph and ending on September 30, 1994, it shall be unlawful for a person to sell, market, or use bovine growth hormone for commercial agricultural purposes.

"(3) ENFORCEMENT.—Not later than 30 days after the date of enactment of this paragraph, the Secretary shall issue regulations to provide for the enforcement of the prohibition contained in paragraph (2).".

(c) CONFORMING AMENDMENTS.—Section 204 of such Act is amended—

(1) in the section heading, by striking "**1995**" and inserting "**1996**";

(2) by striking "1995" each place it appears (other than in subsection (h)(2)(B)) and inserting "1996"; and

(3) in subsection (g)(2), by striking "1994" and inserting "1995".

SEC. 1106. TOBACCO PROGRAM.

(a) DOMESTIC MARKETING ASSESSMENT.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following new section:

"SEC. 320C. DOMESTIC MARKETING ASSESSMENT.

"(a) CERTIFICATION.—A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year, the percentage of the quantity of tobacco that the manufacturer uses to produce cigarettes during the year that is produced in the United States.

"(b) PENALTIES.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year at least 75 percent of tobacco produced in the United States, or to comply with subsection (a), shall be subject to the requirements of subsections (c), (d), and (e).

"(2) FAILURE TO CERTIFY.—For purposes of this section, if a manufacturer fails to comply with subsection (a), the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

"(3) REPORTS AND RECORDS.—The Secretary may require a manufacturer to make such reports and maintain such records as are necessary to carry out this section in accordance with section 373.

"(c) DOMESTIC MARKETING ASSESSMENT.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

"(2) AMOUNT.—The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

"(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

"(B) the difference between—

"(i) ½ of the sum of—

"(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

"(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

"(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

"(3) COLLECTION.—An assessment imposed under this subsection shall be—

"(A) collected by this Secretary and transmitted to the Commodity Credit Corporation; and

"(B) enforced in the same manner as provided in section 320B.

"(d) PURCHASE OF BURLEY TOBACCO.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

"(2) QUANTITY.—Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

"(3) LIMITATION.—If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

"(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

"(e) PURCHASE OF FLUE-CURED TOBACCO.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

"(2) QUANTITY.—Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

"(3) LIMITATION.—If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

"(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

"(f) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.".

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended—

(A) in subsection (g)(1), by striking "1995" and inserting "1998"; and

(B) by adding at the end the following new subsection:

"(h)(1) Effective only for each of the 1994 through 1998 crops of tobacco, an importer of tobacco that is produced outside the United States shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying—

"(A) the number of pounds of tobacco that is imported by the importer; by

"(B) the sum of—

"(i) the per pound marketing assessment imposed on purchasers of domestic Burley tobacco pursuant to subsection (g); and

"(ii) the per pound marketing assessment imposed on purchasers of domestic Flue-cured tobacco pursuant to subsection (g).

"(2) An assessment imposed under this subsection shall be paid by the importer.

"(3)(A) The importer shall remit the assessment at such time and in such manner as may be prescribed by the Secretary.

"(B) If the importer fails to comply with subparagraph (A), the importer shall be liable for a marketing penalty at a rate equal to 37.5 percent of the sum of the average market price (calculated to the nearest whole cent) of Flue-cured and Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(C) The Secretary may reduce an assessment in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(D) Any assessment provided for under this subsection shall be assessed by the Secretary after notice and opportunity for a hearing.

"(4)(A) Any person against whom a penalty is assessed under this subsection may obtain review of the penalty in an appropriate district court of the United States by filing a civil action in the court not later than 30 days after the penalty is imposed.

"(B) The Secretary shall promptly file in the court a certified copy of the record on which the penalty is based.

"(5) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(6) An amount equivalent to any penalty collected by the Secretary under this subsection shall be deposited for use by the Commodity Credit Corporation.".

(2) IMPORTER ASSESSMENTS FOR NO NET COST TOBACCO FUND.—Section 106A of such Act (7 U.S.C. 1445–1) is amended—

(A) in subsection (c), by inserting "and importers" after "purchasers";

(B) in subsection (d)(1)(A)—

(i) by striking "and" at the end of clause (i); and

(ii) by inserting after clause (ii) the following new clause:

"(iii) each importer of Flue-cured or Burley tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount that is equal to the product obtained by multiplying—

"(I) the number of pounds of tobacco that is imported by the importer; by

"(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); and";

(C) in subsection (d)(2)—

(i) by inserting "or importer" after "or purchaser";

(ii) by striking "and" at the end of subparagraph (B);

(iii) by inserting "and" at the end of subparagraph (C); and

(iv) by adding at the end the following new subparagraph:

"(D) if the tobacco involved is imported by an importer, from the importer."; and

(D) in subsection (h)(1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.".

(3) IMPORTER ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT.—Section 106B of such Act (7 U.S.C. 1445–2) is amended—

(A) in subsection (c)(1), by striking "producers and purchasers" and inserting "producers, purchasers, and importers";

(B) in subsection (d)(1)—

(i) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(ii) by adding at the end the following new subparagraph:

"(C) The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco imported by the importer.";

(C) in subsection (d)(2), by adding at the end the following new subparagraph:

"(C) The amount of the assessment to be paid by importers shall be an amount that is equal to the product obtained by multiplying—

"(i) the number of pounds of tobacco that is imported by the importer; by

"(ii) the sum of the amount of per pound producer and purchaser assessments that are payable by domestic producers and purchasers of the respective kind of tobacco under this paragraph.";

(D) in subsection (d)(3), by adding at the end the following new subparagraph:

"(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) shall be collected from the importer."; and

(E) in subsection (j)(1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.".

(c) FEES FOR INSPECTING IMPORTED TOBACCO.—The second sentence of section 213(d) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(d)) is amended by inserting before the period at the end the following: ", and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States".

(d) EXTENSION OF QUOTA REDUCTION FLOORS.—

(1) BURLEY TOBACCO.—Section 319(c)(3)(C)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)(C)(ii)) is amended—

(A) by striking "1993" and inserting "1996"; and

(B) by inserting before the period at the end the following: ", except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Burley tobacco".

(2) FLUE-CURED TOBACCO.—Section 317(a)(1)(C)(ii) of such Act (7 U.S.C. 1314c(a)(1)(C)(ii)) is amended—

(A) by striking "1993" and inserting "1996"; and

(B) by inserting before the period at the end the following: ", except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Flue-cured tobacco".

SEC. 1107. SUGAR PROGRAM.

Section 206(i) of the Agricultural Act of 1949 (7 U.S.C. 1446g(i)) is amended—

(1) in paragraph (1), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during each of fiscal years 1992 through 1994, .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

"(B) in the case of marketings during each of fiscal years 1995 and 1996, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).."; and

(2) in paragraph (2), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during each of fiscal years 1992 through 1994, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

"(B) in the case of marketings during each of fiscal years 1995 and 1996, .2123 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.".

SEC. 1108. OILSEEDS PROGRAM.

(a) LOAN LEVEL.—Section 205(c) of the Agricultural Act of 1949 (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (1), by inserting after "$5.02 per bushel" the following: "for each of the 1991 through 1993 crops and $4.92 per bushel for each of the 1994 and 1995 crops"; and

(2) in paragraph (2), by inserting after "$0.089 per pound" the following: "for each of the 1991 through 1993 crops and $0.087 per pound for each of the 1994 and 1995 crops".

(b) LOAN MATURITY.—Section 205(h) of such Act is amended by striking "mature on the last day of the 9th month following the month the application for the loan is made." and inserting the following: "mature—

"(1) in the case of each of the 1991 through 1993 crops, on the last day of the 9th month following the month the application for the loan is made; and

"(2) in the case of each of the 1994 and 1995 crops, on the last day of the 9th month following the month the application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made.".

(c) LOAN ORIGINATION FEE.—Section 205(m) of such Act is amended by adding at the end the following new paragraph:

"(3) APPLICABILITY.—This subsection shall apply only to each of the 1991 through 1993 crops of oilseeds.".

SEC. 1109. PEANUT PROGRAM.

Section 108B(g) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(g)) is amended—

(1) in paragraph (1), by inserting after "1 percent" both places it appears the following: "for each of the 1991 through 1993 crops, and 1.1 percent for each of the 1994 and 1995 crops,"; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking "½ percent" and inserting ".5 percent for each of the 1991 through 1993 crops, and .6 percent for each of the 1994 and 1995 crops,"; and

(B) in clause (ii), by striking "½ percent" and inserting ".5 percent".

SEC. 1110. HONEY PROGRAM.

(a) REDUCED SUPPORT RATE.—Section 207(a) of the Agricultural Act of 1949 (7 U.S.C. 1446h(a)) is amended by striking "than 53.8 cents per pound." and inserting the following: "than—

"(1) 53.8 cents per pound for each of the 1991 through 1993 crops; and

"(2) 47 cents per pound for each of the 1994 through 1997 crops.".

(b) PAYMENT LIMITATIONS.—Section 207(e)(1) of such Act is amended—

(1) by striking "and" at the end of subparagraph (C); and

(2) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) $125,000 in the 1994 crop year;

"(E) $100,000 in the 1995 crop year;

"(F) $75,000 in the 1996 crop year; and

"(G) $50,000 in the 1997 crop year.".

(c) CONFORMING AMENDMENTS.—Section 207 of such Act (as amended by subsection (b)) is further amended by striking "1995" each place it appears (other than in subsection (e)(1)(E)) and inserting "1997".

SEC. 1111. WOOL AND MOHAIR PROGRAM.

(a) PAYMENT LIMITATIONS.—Section 704(b)(1) of the National Wool Act of 1954 (7 U.S.C. 1783(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C); and

(2) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) $125,000 for the 1994 marketing year;

"(E) $100,000 for the 1995 marketing year;

"(F) $75,000 for the 1996 marketing year; and

"(G) $50,000 for the 1997 marketing year.".

(b) SUPPORT PRICE FOR SHORN WOOL.—Paragraph (3) of section 703(b) of such Act (7 U.S.C. 1782(b)(3)) is amended to read as follows:

"(3) Effective only for each of the 1994 through 1997 marketing years, the support price for shorn wool shall not exceed the support

price for shorn wool for the 1993 marketing year.".

(c) MARKETING ASSESSMENT.—Section 704(c) of such Act (7 U.S.C. 1783(c)) is amended by striking "through 1995" and inserting "and 1992".

(d) MARKETING CHARGES.—Section 706 of such Act (7 U.S.C. 1785) is amended by inserting after the second sentence the following new sentence: "In determining the net sales proceeds and national payment rates for shorn wool and shorn mohair, the Secretary shall not deduct marketing charges for commissions, coring, or grading.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TECHNICAL AMENDMENT.—Section 703(b)(2) of such Act (7 U.S.C. 1782(b)(2)) is amended by striking "1982" and inserting "1990".

(2) CONFORMING AMENDMENTS.—Section 703 of such Act (7 U.S.C. 1782) is amended by striking "1995" both places it appears in subsections (a) and (b) and inserting "1997".

Subtitle B—Restructuring of Loan Programs

SEC. 1201. ELECTRIC AND TELEPHONE LOAN PROGRAMS.

(a) LOAN PROGRAMS UNDER THE RURAL ELECTRIFICATION ACT OF 1936.—

(1) INSURED LOAN PROGRAMS.—Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

(A) by striking subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by inserting after subsection (b) (as so redesignated) the following new subsections:

"(c) INSURED ELECTRIC LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(B) SEVERE HARDSHIP LOANS.—In addition to hardship loans that are made under subparagraph (A), the Administrator may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Administrator, the applicant has experienced a severe hardship.

"(C) LIMITATION.—The Administrator may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(2) MUNICIPAL RATE LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

"(B) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

"(I) the interest rate determined by the Administrator to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) that is based on the current market yield on outstanding municipal obligations; plus

"(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

"(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

"(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

"(ii) MAXIMUM RATE.—The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

"(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

"(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

"(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(C) LOAN TERM.—

"(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

"(ii) MAXIMUM TERM.—

"(I) APPLICANT.—The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

"(II) ADMINISTRATOR.—The Administrator may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

"(D) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

"(d) INSURED TELEPHONE LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

"(i) The average number of subscribers per mile of line in the proposed service area of the applicant is not more than 4.

"(ii) The applicant is capable of producing net income or margins, after interest payments on the loan applied for, of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) AUTHORITY TO WAIVE TIER REQUIREMENT.—The Administrator may waive the requirement of subparagraph (A)(ii) in any case in which the Administrator determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

"(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

"(2) COST-OF-MONEY LOANS.—

"(A) IN GENERAL.—The Administrator may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3), and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(C) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Administrator shall—

"(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

"(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans

for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

"(D) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

"(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

"(A) APPROVAL.—If, not later than 180 days after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Administrator shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Administrator shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

"(B) REQUIREMENTS.—For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

"(i) The plan must provide for the elimination of party line service.

"(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

"(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

"(iv) The plan must provide for—

"(I) subscribers in rural areas to be able to receive through telephone lines—

"(aa) multiple voices;

"(bb) video images; and

"(cc) data at a rate of at least 1,000,000 bits of information per second; and

"(II) the proper routing of information to subscribers.

"(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

"(vi) The plan must provide for such additional requirements for service standards as may be required by the Administrator.

"(C) FINALITY OF APPROVAL.—

"(i) IN GENERAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding subsection (c)(1)(A)(iii), subsection (c)(2)(A)(iii), and section 408(b)(4)(C), the Administrator and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Administrator if the loan is made less than 1 year after the Administrator has adopted final regulations implementing subsection (c)(3).".

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of such Act (7 U.S.C. 948) is amended—

(A) in subsection (a), by striking ", (2)" and all that follows through "408 of this Act," and inserting ", (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service,"; and

(B) in subsection (b)—

(i) by striking paragraph (4) and inserting the following new paragraph:

"(4) The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

"(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(B) The applicant is capable of producing net income or margins, after interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(C) The Administrator has approved, under section 305(d)(3), a telecommunications modernization plan for the State in which the applicant is located, and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.";

(ii) in paragraph (8)—

(I) by inserting "(A)" after "(8)";

(II) by striking "if such prepayment is not made later than September 30, 1988" and inserting "except for any prepayment penalty provided for in a loan agreement entered into before the date of enactment of the Omnibus Budget Reconciliation Act of 1993"; and

(III) by adding at the end the following new subparagraph:

"(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding."; and

(iii) by adding at the end the following new paragraphs:

"(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

"(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

"(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

"(10) On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2).".

(3) FUNDING.—Section 314 of such Act (7 U.S.C. 940d) is amended to read as follows:

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

"(a) DEFINITION OF ADJUSTMENT PERCENTAGE.—As used in this section, the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

"(b) FISCAL YEARS 1994 THROUGH 1998.—In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Administrator such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

"(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(2) ELECTRIC MUNICIPAL RATE LOANS.—For loans under section 305(c)(2)—

"(A) for fiscal year 1994, $600,000,000; and

"(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2)—

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(c) FUNDING LEVELS.—The Administrator shall make insured loans under this title for the purposes, in the amounts, and for the periods of time specified in subsection (b), as provided in advance in appropriations Acts.

"(d) AVAILABILITY OF FUNDS FOR INSURED LOANS.—Amounts made available for loans under section 305 are authorized to remain available until expended.".

(4) MISCELLANEOUS AMENDMENTS.—

(A) Section 2 of such Act (7 U.S.C. 902) is amended—

(i) by inserting "(a)" before "The Administrator";

(ii) by striking "telephone service in rural areas, as hereinafter provided;" and inserting "electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs;"; and

(iii) by adding at the end the following new subsection:

"(b) Not later than January 1, 1994, the Administrator shall issue interim regulations to implement the authority contained in subsection (a) to make loans for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs. If the regulations are not issued by January 1, 1994, the Administrator shall consider any demand side management program that is approved by a State agency to be eligible for the loans.".

(B) Section 4 of such Act (7 U.S.C. 904) is amended by inserting after "central station service" the following: "and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management and energy conservation programs".

(C) Section 13 of such Act (7 U.S.C. 913) is amended—

(i) by inserting ", except as provided in section 203(b)," before "shall be deemed to mean any area"; and

(ii) by striking "city, village, or borough having a population in excess of fifteen hundred inhabitants" and inserting "urban area, as defined by the Bureau of the Census".

(D) Section 203(b) of such Act (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "5,000".

(E) Section 305 of such Act (7 U.S.C. 935) (as amended by subsection (a)(1)) is further amended—

(i) by striking "SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The" and inserting the following:

"SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.

"(a) IN GENERAL.—The"; and

(ii) in subsection (b), by striking "(b) Loans" and inserting "(b) INSURED LOANS.—Loans".

(F) Section 307 of such Act (7 U.S.C. 937) is amended by adding at the end the following new sentence: "The Administrator may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.".

(G) Section 406 of such Act (7 U.S.C. 946) is amended by adding at the end the following new subsection:

"(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the 'RTB Equity Fund').".

(H) Section 18 of such Act (7 U.S.C. 918) is amended—

(i) by inserting "(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—" before "The Administrator"; and

(ii) by adding at the end the following new subsections:

"(b) NO LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

"(c) CONSULTANTS.—

"(1) IN GENERAL.—To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the agency pursuant to the terms of outstanding loan or security instruments or otherwise, the Administrator may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

"(2) CONFLICTS OF INTEREST.—The Administrator shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other potential conflicts of interest in the outcome of the application of the borrower.

"(3) PAYMENT OF COSTS.—The Administrator may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Administrator.

"(4) CONTRACTS, GRANTS, AND AGREEMENTS.—The Administrator may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section without regard to any requirement for competition, section 3709 of the Revised Statutes (41 U.S.C. 5) and section 3324 of title 31, United States Code.

"(5) USE OF CONSULTANTS.—Nothing in this subsection shall limit the authority of the Administrator to retain the services of consultants from funds made available to the Administrator or otherwise.".

(I) Title III of such Act is amended by inserting after section 306B (7 U.S.C. 936b) the following new sections:

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

"For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this Act for a loan, loan guarantee, or lien accommodation under this title, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

"(1) be considered a default by the distribution borrower;

"(2) reduce the eligibility of the distribution borrower for assistance under this Act; or

"(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

"SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO ELECTRIC BORROWERS.

"The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.".

(b) EXPANDED ELIGIBILITY FOR LOANS FOR WATER AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the first sentence the following new sentence: "The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.".

(c) RURAL ECONOMIC DEVELOPMENT.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended by adding at the end the following new subsection:

"(g) RURAL ECONOMIC DEVELOPMENT.—

"(1) IN GENERAL.—A borrower of a loan or loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall be eligible for assistance under all programs administered by the Rural Development Administration.

"(2) PARTICIPATION.—The Administrator of the Rural Development Administration shall encourage and facilitate the full participation of borrowers referred to in paragraph (1) in programs administered by the Rural Development Administration.".

(d) REGULATIONS.—Not later than October 1, 1993, interim final rules shall be issued by—

(1) the Administrator of the Rural Electrification Administration in the case of amendments made by this section to programs administered by the Administrator; and

(2) the Administrator of the Rural Development Administration in the case of amendments made by this section to programs administered by the Administrator.

Subtitle C—Food Stamp Program

SEC. 1301. UNIFORM REIMBURSEMENT RATES.

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "and (5)" and inserting "(5)";

(B) by inserting before ": Provided," the following: ", (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g), (7) food stamp program investigations and prosecutions, and (8) implementing and operating the immigration status verification system established under section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d))"; and

(C) in the proviso, by striking "authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further";

(2) in subsection (g)—

(A) by striking "an amount equal to 63 percent effective on October 1, 1991, of" and inserting "the amount authorized under subsection (a)(6) for"; and

(B) by striking "automatic" and inserting "automated";

(3) by striking subsection (j); and

(4) by redesignating subsection (k) as subsection (j).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after April 1, 1994.

(2) BIENNIAL LEGISLATURES.—In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, and that demonstrates to the satisfaction of the Secretary of Agriculture that there is no mechanism, under the constitution and laws of the State, for appropriating the additional funds required by the amendments made by this section before the next such regular legislative session, the Secretary may delay the effective date of all or part of the amendments made by subsection (a) until the beginning date of a calendar quarter that is not later than the first calendar quarter beginning after the close of the first regular session of the State legislature after the date of enactment of this Act.

Subtitle D—Agricultural Trade

SEC. 1401. MARKET PROMOTION PROGRAM.

(a) REDUCTION OF FUNDING LEVEL.—Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(1) in paragraph (1)—

(A) by striking "1995" and inserting "1993"; and

(B) by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) in addition to any funds that may be specifically appropriated to implement a market development program, for each of fiscal years 1994 and 1995, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation—

"(A) not less than $33,000,000 for—

"(i) branded promotion activities involving small-sized commercial entities and medium-sized commercial entities that are beginning exporters; and

"(ii) activities other than branded promotion activities that only benefit small-sized commercial entities and medium-sized commercial entities, or (as determined by the Secretary) small-sized agricultural producers and medium-sized agricultural producers; and

"(B) in addition to funding specified in subparagraph (A), not less than $77,000,000 for program activities by any eligible trade organization, including organizations specified under subparagraph (A); and".

(b) DEFINITIONS.—Section 102 of such Act (7 U.S.C. 5602) is amended by adding at the end the following new paragraph:

"(9) COMMERCIAL ENTITY.—

"(A) IN GENERAL.—The term 'commercial entity' means a cooperative or private organization that exports or promotes an agricultural commodity, including an entity that controls, is controlled by, or is under common control with such a cooperative or private organization.

"(B) MEDIUM-SIZED COMMERCIAL ENTITY.—The term 'medium-sized commercial entity' means a commercial entity that employs not less than 51, nor more than 500, individuals.

"(C) SMALL-SIZED COMMERCIAL ENTITY.—The term 'small-sized commercial entity' means a commercial entity that employs not more than 50 individuals.".

SEC. 1402. ACREAGE REDUCTION REQUIREMENTS.

(a) IN GENERAL.—Section 1104 of the Omnibus Budget Reconciliation Act of 1990 (7 U.S.C. 1445b-3a note) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph:

"(2) corn under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7½ percent."; and

(2) in subsection (b)(2), by striking "grain sorghum, and barley,".

(b) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of such Act (7 U.S.C. 1421 note) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(2) in subsection (c), by striking "and other programs"; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in paragraph (2), by striking "(A), (B), and (C)" and inserting "(A) and (B)"; and

(C) in paragraph (3)—

(i) by striking "measures specified in subparagraph (A) of paragraph (1) and"; and

(ii) by striking "(B) or (C)" and inserting "(A) or (B)".

SEC. 1403. END-USE CERTIFICATES.

(a) IN GENERAL.—Subtitle A of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5661 et seq.) is amended—

(1) by redesignating section 404 (7 U.S.C. 5664) as section 405; and

(2) by inserting after section 403 the following new section:

"SEC. 404. END-USE CERTIFICATES.

"(a) DEFINITIONS.—As used in this section:

"(1) COVERED FOREIGN COMMODITY.—The term 'covered foreign commodity' means any wheat or barley produced in a foreign country that is imported into the United States, including any imported commodity that will be subsequently commingled with a like commodity produced in the United States.

"(2) END-USE CERTIFICATE.—The term 'end-use certificate' means a certification that describes—

"(A) the class, quantity, and country of origin of the covered foreign commodity;

"(B) the importer and consignee of the covered foreign commodity;

"(C) the end use for which the consignee will use the covered foreign commodity; and

"(D) at the option of the Secretary, the sales price and quality of the covered foreign commodity.

"(b) STATEMENT OF PURPOSE.—The Secretary shall improve monitoring of the end use of covered foreign commodities, as provided in this section, in order to ensure that exports of agricultural commodities under the programs authorized by this Act and other agricultural trade programs are entirely produced in the United States.

"(c) REQUIREMENT ON COVERED FOREIGN COMMODITIES.—The Commissioner of Customs shall not permit the entry into, or the withdrawal from a warehouse for use in, the United States of a covered foreign commodity, unless the importer of record presents an end-use certificate for the covered foreign commodity that complies with this section at the time of entry or withdrawal, as appropriate.

"(d) MAINTENANCE OF CERTIFICATE WITH COVERED FOREIGN COMMODITY.—The end-use certificate shall be maintained with the covered foreign commodity until the commodity reaches the end use of the commodity within the United States. The end use of a covered foreign commodity includes feeding to livestock, first stage processing for human consumption, exporting from the United States, or (as determined by the Secretary) other end uses.

"(e) CERTIFICATION.—The Secretary shall require any importer or consignee of a covered foreign commodity to certify, on a quarterly basis, the end use or transfer, during the period the commodity is a covered foreign commodity, by the importer or consignee, along with any additional information the Secretary determines to be appropriate.

"(f) COMPLIANCE.—Subsections (b), (c), and (d) of section 402 shall apply to an importer or consignee of a covered foreign commodity subject to the terms and conditions specified in this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date that is 120 days after the date of enactment of this Act.

SEC. 1404. SENSE OF CONGRESS REGARDING THE EXPORT OF VEGETABLE OIL.

It is the sense of Congress that the Secretary of Agriculture should continue aggressively to promote the export of vegetable oil through all available authorities, including but not limited to the export enhancement program established under section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651).

Subtitle E—Miscellaneous

SEC. 1501. FEDERAL CROP INSURANCE.

(a) ACTUARIAL SOUNDNESS.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by adding at the end the following new subsection:

"(n) ACTUARIAL SOUNDNESS.—The Corporation shall take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance coverage made available under this title to achieve, on and after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

"(1) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would prevent beginning farmers from obtaining adequate Federal crop insurance, as determined by the Corporation;

"(2) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

"(3) establishing a database that contains the social security account and employee identification numbers of participating producers and using the numbers to identify insured producers who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

"(4) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for agricultural producers.".

(b) CONFORMING AMENDMENTS.—

(1) REINSURANCE.—Section 508(h) of such Act (7 U.S.C. 1508(h)) is amended by striking the fifth sentence and inserting the following new sentence: "The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance in an amount determined by the Corporation.".

(2) AREA YIELD PLAN.—Section 508 of such Act (7 U.S.C. 1508) is amended by adding at the end the following new subsection:

"(n) AREA YIELD PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation may offer, only as an option to individual crop insurance coverage available under this Act, a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area, as specified by the Corporation, in which the farm of the producer is located.

"(2) LEVEL OF COVERAGE.—Under a plan offered under paragraph (1), an insured producer shall be allowed to select the level of production at which an indemnity will be paid consistent with terms and conditions established by the Corporation.".

(3) YIELD COVERAGE.—Section 508A of such Act (7 U.S.C. 1508a) is amended—

(A) in subsection (a)(1), by striking "may" and inserting "shall"; and

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) by striking "A crop insurance contract" and all that follows through "producer—" and inserting "Under regulations issued by the Corporation, a crop insurance contract offered under this title to an eligible insured producer of a commodity with respect to which the Corporation provides crop insurance coverage shall make available to the producer either—";

(II) by striking "or" at the end of clause (i);

(III) in clause (ii)—

(aa) by striking "5" and inserting "4 building to 10"; and

(bb) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following new clause:

"(iii) yield coverage based on—

"(I) not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), as specified in regulations issued by the Corporation based on production history requirements; or

"(II) the area yield under section 508(n) for the crop established under the program for the commodity involved.";

(ii) in paragraph (1)(B)—

(I) by striking "two" and inserting "3"; and

(II) by inserting after "subparagraph (A)" the following: ", where available (as determined by the Corporation),";

(iii) in paragraph (2)—

(I) by striking "5" and inserting "4 building to 10"; and

(II) by inserting after "previous crops," the following: "not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), or the area yield,"; and

(iv) in paragraph (3)(A)(i), by inserting after "farm program yield" the following: ", not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), as specified in regulations issued by the Corporation based on production history requirements, or the area yield under section 508(n), whichever is applicable,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall become effective on October 1, 1993.

(2) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall publish, for public comment, proposed regulations to implement the amendments made by this section.

SEC. 1502. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended—

(1) in section 1230(b) (16 U.S.C. 3830(b)), by striking "to place in" and all that follows through "acres";

(2) in section 1231(d) (16 U.S.C. 3831(d))—

(A) by striking "may" and inserting "shall";

(B) by striking "the amount of acres specified in section 1230(b)" and inserting "a total of 38,000,000 acres during the 1986 through 1995 calendar years"; and

(C) by striking "each of calendar years 1994 and 1995" and inserting "the 1995 calendar year";

(3) in section 1237 (16 U.S.C. 3837)—

(A) by striking subsection (b) and inserting the following new subsection:

"(b) MINIMUM ENROLLMENT.—The Secretary shall enroll into the wetlands reserve program—

"(1) a total of not less than 330,000 acres by the end of the 1995 calendar year; and

"(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years."; and

(B) in subsection (c), by striking "1995" and inserting "2000"; and

(4) in section 1241 (16 U.S.C. 3841)—

(A) in subsection (a)—

(i) by striking "(a)(1) During each of the fiscal years ending September 30, 1986, and September 30, 1987" and inserting "(a) During each of fiscal years 1994 through 2000"; and

(ii) by striking paragraph (2); and

(B) in subsection (b), by striking "(A) through (E)" and inserting "A through E".

SEC. 1503. ADMISSION, ENTRANCE, AND RECREATION FEES.

(a) DEFINITIONS.—As used in this section:

(1) AREA OF CONCENTRATED PUBLIC USE.—The term "area of concentrated public use" means an area administered by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

(C) The area contains at least one major recreation attraction.

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at 1 or more centralized locations.

(2) BOAT LAUNCHING FACILITY.—The term "boat launching facility" includes any boat launching facility, regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) CAMPGROUND.—The term "campground" means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

(H) If campfires are permitted in the campground, simple devices for containing the fires.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) AUTHORITY TO IMPOSE FEES.—The Secretary—

(1) may charge admission or entrance fees at national monuments, national volcanic monuments, national scenic areas, and areas of concentrated public use administered by the Secretary;

(2) acting through the Forest Service shall reimburse the Agricultural Stabilization and Conservation Service for administrative costs incurred under the Stewardship Incentive Program for the actual cost of services provided by the Agricultural Stabilization and Conservation Service, except that the actual costs shall not exceed 10 percent of the total annual appropriation for the program; and

(3) may charge recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, and facilities, including visitors' centers, picnic tables, boat launching facilities, and campgrounds.

(c) AMOUNT OF FEES.—The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

SEC. 1504. SENSE OF THE SENATE REGARDING DEFICIT REDUCTION.

It is the sense of the Senate that—

(1) farmers should pay no more than their fair share of any budget reduction necessary to achieve the goal of deficit reduction; and

(2) the level of budget reduction should take into account and be adjusted to reflect any BTU or energy taxes, any other taxes, reduction in interest rates, and other user fees.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 2001. LIMITATION ON COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES.

Paragraph (2) of section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(2) PRE-AUGUST 1, 1986 MEMBERS.—

"(A) GENERAL RULE.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(i) the price index for the base quarter of that year, exceeds

"(ii) the base index.

"(B) SPECIAL RULES FOR FISCAL YEARS 1994 THROUGH 1998.—

"(i) FISCAL YEARS 1994 THROUGH 1997.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1993, 1994, 1995, or 1996, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.

"(ii) FISCAL YEAR 1998.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be August 1998.

"(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.".

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amended to read as follows:

"(11) DEPOSITOR PREFERENCE.—

"(A) IN GENERAL.—Subject to section 5(e)(2)(C), amounts realized from the liquidation or other resolution of any insured depository institution by any receiver appointed for such institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

"(i) Administrative expenses of the receiver.

"(ii) Any deposit liability of the institution.

"(iii) Any other general or senior liability of the institution (which is not a liability described in clause (iv) or (v)).

"(iv) Any obligation subordinated to depositors or general creditors (which is not an obligation described in clause (v)).

"(v) Any obligation to shareholders or members arising as a result of their status as shareholders or members (including any depository institution holding company or any shareholder or creditor of such company).

"(B) EFFECT ON STATE LAW.—

"(i) IN GENERAL.—The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of such subparagraph, and then only to the extent of the inconsistency.

"(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A)(i) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

"(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(C) ACCOUNTING REPORT.—Any distribution by the Corporation in connection with any claim described in subparagraph (A)(vi) shall be accompanied by the accounting report required under paragraph (15)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(c)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(13)) is amended—

(A) in subparagraph (A), by striking "subject to subparagraph (B),";

(B) by inserting "and" after the semicolon at the end of subparagraph (A);

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(2) Section 11(g)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1921(g)(4)) is amended by striking "If the Corporation" and inserting "Subject to subsection (d)(11), if the Corporation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to insured depository institutions for which a receiver is appointed after the date of the enactment of this Act.

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—The 1st undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended to read as follows:

"(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

"(1) STOCKHOLDER DIVIDENDS.—

"(A) IN GENERAL.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

"(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph shall be cumulative.

"(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under subparagraph (A) have been fully met shall be deposited in the surplus fund of the bank.

"(3) PAYMENT TO TREASURY.—During fiscal years 1997 and 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act, the Federal reserve banks shall transfer from such

surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of $106,000,000 in fiscal year 1997 and a total amount of $107,000,000 in fiscal year 1998.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during fiscal years 1997 and 1998.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking "The net earnings derived" and inserting "(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived".

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking "Federal reserve banks" and inserting "(c) EXEMPTION FROM TAXATION.—Federal reserve banks".

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) AMENDMENTS TO HOUSING ACTS.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended as follows:

(1) DEFINITION.—In subsection (a), by adding at the end the following:

"(4) PROGRAM OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The term 'program of the Department of Housing and Urban Development' includes Indian housing programs assisted under title II of the United States Housing Act of 1937.".

(2) CONSENT FORMS.—In subsection (b)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and";

(C) by inserting after paragraph (2) the following new paragraph:

"(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits."; and

(D) in the last sentence, by striking "This" and inserting the following: "Except as provided in this subsection, this".

(2) APPLICANT, PARTICIPANT, AND PUBLIC HOUSING AGENCY PROTECTIONS.—In subsection (c)(2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting after "compensation law" the following: "or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury"; and

(II) by inserting "(in the case of information obtained pursuant to such section 303(i))" before "representatives"; and

(ii) in clause (ii), by inserting "or public housing agency" after "owner" each place it appears; and

(B) in subparagraph (B), by inserting after "wages" each place it appears the following: ", other earnings or income,".

(3) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting "or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986" after "Social Security Act"; and

(B) in the first sentence of subparagraph (B)—

(i) by striking clause (i) and inserting the following: "(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or"; and

(ii) in clause (ii), by inserting "such section 6103(l)(7)(D)(ix)," after "303(i),".

(4) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking "STATE EMPLOYMENT".

(5) OPERATING SUBSIDY ADJUSTMENTS.—Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended by adding at the end the following:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

(b) CONFORMING INTERNAL REVENUE CODE AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D); relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) in clause (vii), by striking ", and" at the end and inserting a semicolon;

(B) in clause (viii), by striking the period at the end and inserting "; and";

(C) by inserting after clause (viii) the following new clause:

"(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this paragraph only to the Secretary of Housing and Urban Development and only with respect to applicants for and participants in such programs who have signed consent forms under section 904(b)(3) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988."; and

(D) by adding at the end the following: "Clause (ix) shall not apply after September 30, 1998.".

(2) AMENDMENT TO THE HEADING.—The heading of paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 is amended by inserting after "1977," the following: "CERTAIN HOUSING ASSISTANCE PROGRAMS,".

SEC. 3004. GNMA REMIC GUARANTEE FEES.

Section 306(g)(3) of the National Housing Act (12 U.S.C. 1721(g)(3)) is amended by adding at the end the following new subparagraph:

"(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after the date of the enactment of this subparagraph.

"(ii) In its annual report, the Association shall provide a summary of each activity of the Association pertaining to the Association's multiclass securities program. Each summary shall contain a description of the activity and shall include—

"(I) information pertaining to the size of the transactions closed, the number of mortgages involved, the amount of fees charged, those persons or entities receiving payments for services provided and the amounts of such payments; and

"(II) an estimate of the portion of the benefit of the multiclass securities program accruing to mortgagors as well as a description of any action taken by the Association to ensure such accrual.

"(iii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

"(iv) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

"(v) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after the effective date of this subparagraph) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.

"(vi) Prior to the commencement of the multiclass securities program, the Association shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the Association's design of the multiclass securities program, including program elements that ensure the minimization of risks arising from the operation of the multiclass securities program, such as—

"(I) any industry proven safeguards, including capital standards for sponsors and provisions for indemnification from private parties for events that may result in the Association's liability under its guaranty or commitment to guaranty; and

"(II) the sufficiency of the Association's staff resources to administer the multiclass securities program.".

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.

TITLE IV—COMMUNICATIONS AND TRANSPORTATION

Subtitle A—Spectrum Allocation and Auction

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1993".

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of such frequencies are underutilized by Federal Government licensees;

(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial providers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) limit the capacity and efficiency of telecommunications systems in the United States;

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns;

(7) a reassignment of Federal Government frequencies can be accomplished without adverse impact on amateur radio licenses that currently share allocations with Federal Government stations;

(8) current spectrum assignment procedures—comparative hearings and lotteries—can be expensive and time consuming, can strain the limited resources of the Federal Communications Commission, and can result in an inefficient distribution of spectrum and an unjustified windfall to speculators;

(9) competitive bidding could reduce the cost in time and money—and increase the efficiency—of the spectrum assignment process for certain radio services, discourage speculative applications, encourage the efficient use of spectrum by licensees, and fairly compensate United States taxpayers for use of a scarce public natural resource;

(10) competitive bidding should be structured to—

(A) facilitate introduction of new spectrum-based technologies and services and entry of new companies into the telecommunications market;

(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;

(C) give appropriate consideration to small businesses and minority-owned businesses that want to participate in the competitive bidding process;

(D) recognize the need to make reasonably priced mobile communications services available to businesses in rural areas;

(E) recognize the need to ensure that adequate spectrum continues to be available for public safety services; and

(F) otherwise further the public interest;

(11) competitive bidding should apply only to the granting of new spectrum licenses and should not—

(A) disrupt the operations of existing spectrum licensees;

(B) alter existing spectrum allocation procedures;

(C) apply to certain services governed by public interest regulations;

(D) diminish the existing authority of the Federal Communications Commission to regulate or reclaim spectrum licenses;

(E) prevent or discourage the allocation of spectrum to meet the current or future needs of public safety services; or

(F) grant any right to a spectrum licensee different from the rights awarded to licensees who obtain their license through assignment methods other than competitive bidding;

(12) in appropriating revenues received from competitive bidding, priority should be given to—

(A) funding spectrum management, planning, monitoring, and enforcement and other activities of the Federal Communications Commission, the National Telecommunications and Information Administration, and other Federal agencies aimed at increasing the efficiency and effectiveness of spectrum use, facilitating the introduction of new spectrum-based technologies and services, and enhancing the international competitiveness of the United States and the ability of American companies to enter new markets; and

(B) extending the reach of public radio and television to underserved areas of the United States and underserved groups of Americans and enhancing the ability of public telecommunications to deliver needed original, high-quality public service programming; and

(13) because commercial mobile services require a Federal license and the Federal Government is attempting to promote competition for such services, and because providers of such services do not exercise market power vis-a-vis telephone exchange service carriers and State regulation can be a barrier to the development of competition in this market, uniform national policy is necessary and in the public interest.

SEC. 4003. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference, as a means of increasing commercial access.

(b) REPORT ON PLANNING ACTIVITIES.—Not later than 24 months after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall submit a joint report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities. The report shall contain recommendations for the reform of the process of allocating spectrum between Federal uses and non-Federal uses.

(c) PROCEDURES TO ENSURE OPPORTUNITY FOR MINORITY-OWNED BUSINESSES AND SMALL BUSINESSES.—The Commission shall develop procedures to ensure that minority-owned businesses and small businesses are given the opportunity to provide spectrum-based services. In developing such procedures, the Commission shall consider the use of tax certificates and bidding preferences.

(d) STUDY ON SPECTRUM NEEDS OF PUBLIC SAFETY AGENCIES.—The Commission shall complete and submit to Congress, not later than 18 months after the date of enactment of this Act, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to satisfy those spectrum needs.

SEC. 4004. RECOMMENDATIONS FOR REALLOCATION OF CERTAIN FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—For purposes of reallocation, the Secretary shall identify frequencies that—

(1) are allocated on a primary basis for Federal Government use;

(2) are not required for the present or identifiable future needs of the Federal Government;

(3) can feasibly be made available, as of the date of such identification or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under section 305 of the Act) without resulting in costs to the Federal Government, or loss of services or benefits to the public, that are excessive in relation to the benefits to the public that may be provided by non-Federal licensees; and

(4) are most likely to have the greatest potential for productive uses and public benefits under the Act if allocated for commercial uses.

(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

(1) OVERALL RECOMMENDATION.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), at least 200 megahertz of frequencies identified under subsection (a) that are located below 5 gigahertz. At least one-half of such frequencies shall be located below 3 gigahertz.

(2) MIXED USES PERMITTED TO BE COUNTED.—Among the frequencies recommended under this section for reallocation, the Secretary may include frequencies and frequency bands that are to be partially retained for use by Federal Government stations but that are also recommended to be reallocated under the Act for use by non-Federal stations, except that—

(A) such mixed-use frequencies and frequency bands may not count toward more than one-half of the 200 megahertz minimum required by paragraph (1);

(B) such mixed-use frequencies and frequency bands may not be so counted unless the assignments of the frequencies to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures that the Commission and the Secretary shall jointly establish and implement to ensure against harmful interference.

(c) CONSIDERATION OF CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the frequency is used to provide a communications service that is or could be made available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of Federal Government services and operations;

(ii) excessive costs to the Federal Government and users of Federal Government services; and

(iii) excessive disruption of existing use of Federal Government frequencies by amateur radio licensees.

(2) FEASIBILITY OF USE.—In determining whether a frequency meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume that the frequency will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) within 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) seek to include frequencies which can be used to stimulate the development of new technologies; and

(D) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

(3) COMMERCIAL USE.—In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing such frequency;

(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use;

(C) the extent to which, in general, commercial users could share the frequency with amateur radio licensees; and

(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) OTHER USES.—

(A) APPLICABILITY OF CRITERIA.—The criteria specified by subsection (a) shall be deemed not to be met for any purpose under this subtitle with regard to any frequency assignment to, or any frequency assignment used by, a Federal power agency for the purpose of withdrawing that assignment.

(B) MIXED USE ELIGIBILITY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(C) DEFINITION.—As used in this paragraph, the term "Federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) REPORT IDENTIFYING 30 MEGAHERTZ FOR IMMEDIATE REALLOCATION.—Within 6 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a report that recommends for immediate reallocation no less than 30 megahertz of frequencies identified under subsection (a). None of the frequencies covered by such report may be allocated for mixed use as described in subsection (b)(2). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(2) PRELIMINARY REPORT ON OTHER REALLOCABLE FREQUENCIES.—Within 6 months after the date of enactment of this Act, the Secretary shall prepare, make publicly available, and submit to the President and the Congress a preliminary report that recommends for reallocation at least 170 megahertz of frequencies identified under subsection (a), other than those recommended for immediate reallocation under paragraph (1).

(3) PUBLIC COMMENT; CHANGES TO REPORT.—The Secretary shall receive public comment on the preliminary report required by paragraph (2) and shall, based upon the comments, make such changes to the report as are warranted to meet the objectives of this section.

(4) DIRECT DISCUSSIONS.—The Secretary shall encourage and provide opportunity for direct discussions among commercial representatives and Federal Government users of the spectrum to aid the Secretary in determining which frequencies to recommend for reallocation. The Secretary shall provide notice to the public of any such discussions, including the name or names of any businesses or other persons represented in such discussions, and shall provide the public with an opportunity to comment on the results of any such negotiations prior to the submission of the final report required by paragraph (5).

(5) FINAL REPORT ON OTHER REALLOCABLE FREQUENCIES.—Within 18 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a final report that recommends the reallocation of at least 170 megahertz of frequencies as described in paragraph (2). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(6) LIMITATION ON REALLOCATION.—None of the frequencies recommended for reallocation in the reports required by this subsection shall have been recommended, prior to the date of enactment of this Act, for reallocation to non-Federal use by international agreement.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the reports required by paragraphs (1) and (2) of subsection (d), include a timetable that recommends dates by which the President shall withdraw or limit assignments of the frequencies specified in the reports. In setting the recommended effectived dates, the Secretary shall—

(1) consider the need to reallocate frequencies as early as possible, taking into account the requirements of section 406;

(2) consider the useful remaining life of equipment that has been purchased or contracted for purchase to operate on identified frequencies;

(3) consider the need to coordinate frequency use with other nations; and

(4) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

SEC. 4005. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 12 months after receipt of the report required by section 404(d)(1), withdraw the assignment to a Federal Government station of any frequency in the frequencies recommended by that report for immediate reallocation;

(2) by the effective date recommended by the Secretary under section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report required by section 404(d)(3) recommends be reallocated or made available for mixed use on such recommended effective date;

(3) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency for the frequency that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) GROUNDS FOR SUBSTITUTION.—Each of the following subparagraphs describes a circumstance referred to in paragraph (1):

(A) The reassignment would seriously jeopardize the national defense interests of the United States.

(B) The frequency proposed for reassignment is uniquely suited to meeting important governmental needs.

(C) The reassignment would seriously jeopardize public health or safety.

(D) The reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

(E) The reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended under section 404 for reallocation, unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective date recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 404(b), the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each Committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE FEDERAL GOVERNMENT.—

(1) REIMBURSEMENT AUTHORIZED.—Any Federal agency, or non-Federal entity operating on behalf of a Federal agency, whose operation is displaced from a frequency pursuant to this section may be reimbursed, from revenues received pursuant to section 408, not more than the incremental costs such agency or entity incurs (in such amounts as are provided in advance in an appropriations Act) that are directly attributable to the displacement from the frequency. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the affected Federal agencies such sums as may be necessary to carry out the purposes of this subsection.

(d) EXISTING AUTHORITY RETAINED.—

(1) ADDITIONAL REALLOCATION.—Nothing in this subtitle prevents or limits additional reallocation of spectrum from the Federal Government to the commercial or other sectors.

(2) IMPLEMENTATION OF NEW TECHNOLOGIES AND SERVICES.—Notwithstanding any other provision of this subtitle—

(A) the Secretary may at any time allow frequencies allocated on a primary basis for Federal Government use to be used by non-Federal licensees on a mixed-use basis for the purpose of facilitating the prompt implementation of new technologies or services; and

(B) the Commission shall expedite and give priority to the allocation of any frequencies identified pursuant to subparagraph (A), and any associated licensing.

SEC. 4006. ALLOCATION AND ASSIGNMENT OF FREQUENCIES BY THE COMMISSION.

(a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY AVAILABLE FREQUENCIES.—With respect to the frequencies made available for immediate reallocation pursuant to section 405(a)(1), the Commission, not later than 18 months after the date of enactment of this Act, shall issue rules to allocate such frequencies and shall propose rules to assign such frequencies.

(b) ALLOCATION AND ASSIGNMENT OF REMAINING AVAILABLE FREQUENCIES.—With respect to the frequencies made available for reallocation pursuant to section 405(a)(2), the Commission shall, not later than 1 year after receipt of the final report identified in section 404(d)(4), prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the Act of such frequencies. Such plan shall—

(1) not propose the immediate allocation and assignment of all such frequencies but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of 10 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure the availability of frequencies for (A) new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157) and (B) the safety of life and property in accordance with the policies of section 1 of the Act (47 U.S.C. 151);

(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations;

(4) not prevent the Commission from allocating frequencies, and assigning licenses to use frequencies, not included in the plan; and

(5) not preclude the Commission from making changes to the plan in future proceedings.

(c) AMENDMENT TO THE ACT.—Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following new subsection:

"(v) Have authority to assign licenses to use the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1993; except that any such assignment shall be made expressly subject to the right of the President to reclaim such frequencies under section 7 of such Act.".

SEC. 4007. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 405, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle, except that the notification required by section 405(b)(1)(B) shall include—

(A) a timetable to accommodate an orderly transition for displaced licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum uses licensed by the Commission.

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Act (47 U.S.C. 606).

SEC. 4008. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING.—

(1) IN GENERAL.—

(A) FIVE-YEAR AUTHORIZATION.—The Commission shall, during fiscal years 1994 through 1998, use the competitive bidding process authorized under the amendment made by subsection (b) to grant all radio spectrum licenses for which two or more mutually exclusive applications have been filed, including the 200 megahertz of spectrum made available to the Commission under this subtitle, and including the licenses issued for a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services", or any successor proceeding, except for those licenses identified in subparagraphs (A) through (E) of section 309(j)(4) of the Act and those licenses that the Commission determines should in the public interest be issued by comparative hearing under section 309(a) through (f) of the Act. To the extent possible, and consistent with the purposes of this subtitle, the Commission shall seek to ensure that revenues received pursuant to the competitive bidding process are received before the end of fiscal year 1998.

(B) EXPIRATION OF REQUIREMENTS.—The requirements of subparagraph (A) shall expire either—

(i) upon a determination by the Secretary of the Treasury that competitive bidding has resulted in or is reasonably expected to result in the receipt of $7,200,000,000 by the end of fiscal year 1998, or

(ii) at the end of fiscal year 1998, whichever is earlier.

(C) REPORT TO PRESIDENT AND CONGRESS.—The Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, and submit to the President and the Congress, not later than March 31, 1997, and March 31, 1999, reports on the use of competitive bidding under subparagraph (A). Such reports shall examine, in addition to any other matters deemed appropriate by the Commission, whether and to what extent—

(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) the needs of rural spectrum users were adequately addressed in the competitive bidding process;

(iv) small businesses and minority-owned businesses were able to participate successfully in the competitive bidding process; and

(v) statutory changes are needed to improve the competitive bidding process.

(2) RETENTION OF REVENUES.—Notwithstanding paragraph (6) of section 309(j) of the Act, as added by this subtitle, the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from the receipts received pursuant to such section for the costs of developing and implementing the program required by subsection (a)(1)(A). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under section 309(i) of the Act shall be used by the Commission to implement section 309(j) of the Act.

(b) COMPETITIVE BIDDING AUTHORIZATION.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j)(1) Subject to the exemptions and conditions set forth in the other provisions of this subsection, if there are two or more mutually exclusive applications for any construction permit or initial license which will involve any use of the electromagnetic spectrum, the Commission shall have authority to use competitive bidding in the granting of such construction permit or initial license.

"(2)(A) The Commission shall, within 6 months after the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and following public notice and comment proceedings, issue rules establishing competitive bidding procedures under this subsection. Such rules shall include safeguards to protect the public interest in the use of the spectrum and shall ensure the opportunity for successful participation by small businesses and minority-owned businesses.

"(B)(i) In the rules issued pursuant to subparagraph (A), the Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the wining bidder to file a second-stage application. After determining that such application is acceptable for filing and that the winning bidder is qualified as described in clause (ii), the Commission shall grant the permit or license to the winning bidder.

"(ii) No permit or license shall be granted to a winning bidder pursuant to clause (i) unless the Commission determines that such winning bidder is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first-stage and second-stage applications submitted pursuant to clause (i).

"(iii) Each participant in the competitive bidding process shall be subject to the schedule of charges contained in section 8.

"(C) In the rules issued pursuant to subparagraph (A), the Commission, in addition to other actions it finds necessary to implement competitive bidding fairly and effectively, shall—

"(i) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as installment or lump sum payments, royalties on future income, a combination thereof, or other reasonable forms of payment specified by the Commission); and

"(ii) establish other appropriate conditions on such permits and licenses that serve the public interest.

"(3)(A)(i) If the Commission decides to use competitive bidding to grant two or more national, regional, or local licenses per market in a terrestrial service that will compete with telephone exchange service provided by a qualified common carrier, the Commission shall designate one such license per market as a rural program license.

"(ii) The Commission shall define the geographic boundaries of the rural program license to correspond to the geographic area of the telephone exchange service by which the qualified common carrier became eligible for the rural program license under subparagraph (E)(ii).

"(B)(i) Except as provided in subparagraph (D), the Commission shall either grant a rural program license to the qualified common carrier providing telephone exchange service in the area covered by such license, or grant a license to a consortium of such qualified carriers.

"(ii) No qualified common carrier that receives a rural program license shall be eligible to—

"(I) receive any other license to provide the same service in such area; or

"(II) own any equity interest in, become a creditor of, or otherwise become affiliated with any entity that holds a license to provide the same service in such area.

"(iii) Any qualified common carrier that receives a rural program license shall (I) provide to all other licensees providing the same service in such area the same quality of access to its wire network that it provides itself, and (II) shall interconnect its wireless service with the wireless service provided by another licensee providing the same service on the same frequency in a different geographic area. Such other licensee shall provide an equivalent interconnection with the wireless service of such rural program licensee.

"(iv) The Commission may establish other rules or conditions for the award of a rural program license, consistent with the intent of this paragraph.

"(C)(i) Upon the grant of a rural program license to a qualified common carrier, such carrier shall pay a fee (in lump sum or installment payments, in royalties on future income, in a combination thereof, or on any other reasonable basis specified by the Commission) equal to the value of such license. The value of such license shall be the average of the amounts paid by persons granted licenses through competitive bidding to provide the same service in such area, except that the Commission shall determine the value of such license by any reasonable means when the geographic area served by the rural program license is not congruent with the geographic area served by the other license or licenses. The Commission shall ensure that the total amount paid by qualified common carriers for all the licenses issued to them under the rural program shall equal the total value, as determined under clause (ii), of such licenses.

"(ii) The Commission shall determine the total value of the licenses issued under the rural program to qualified common carriers by first adding the amounts paid for the licenses not subject to the rural program, and dividing that sum by the number of licenses per market that are not subject to the rural program. The Commission shall then subtract from the amount found in the previous calculation the total amount paid for the licenses issued for the non-rural areas under bidding subject to the rural program and the total amount paid for licenses issued pursuant to subparagraph (D). The amount remaining shall be the total value of all the licenses issued under the rural program to qualified common carriers.

"(D) If no qualified common carrier applies for a rural program license in a particular market and the Commission awards the non-rural program licenses through competitive bidding, the rural program shall not apply for that particular market and the Commission shall use competitive bidding to award the licenses for the former rural program areas, either separately or as part of larger license areas.

"(E) For purposes of this paragraph—

"(i) the term 'rural area' means any geographic area that does not include either—

"(I) any incorporated place of 10,000 inhabitants or more, or any part thereof; or

"(II) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of the Census as of the date of enactment of the Emerging Telecommunications Technologies Act of 1993); and

"(ii) the term 'qualified common carrier' means a common carrier that—

"(I) either provides telephone exchange service by wire in a rural area, provides telephone exchange service by wire to less than 10,000 subscribers, or is a telephone utility whose income accrues to a State or political subdivision thereof; and

"(II) submits an application for a rural program license that meets the standards established by the Commission to determine ability to provide the service covered by the license.

"(F) The provisions of subparagraph (A)(ii) do not limit the Commission's discretion to determine, for licenses issued other than under this paragraph, the size of any market area or the number of licensees for any service.

"(4) The competitive bidding authority provided to the Commission in paragraph (1) shall not—

"(A) because of the need to avoid excessive service disruption, extend to license renewals and modifications;

"(B) because of the essential services they provide, extend to licenses reserved for the United States Government and State or local government entities;

"(C) because of their public service obligations, extend to licenses to provide amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) because they do not involve mutually exclusive applications, extend to private radio end-user licenses, including Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) because of the need to avoid excessive service disruption, extend to any license grant to a non-Federal licensee being moved from its current frequency assignment to a different one by the Commission in order to make spectrum available for new technologies; and

"(F) extend to any other service, class of services, or assignments that the Commission determines, after conducting public notice and comment proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeopardize appropriate treatment of those factors.

"(5) No provision of this subsection or of the Emerging Telecommunications Technologies Act of 1993 shall be construed, in any way, to—

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) allow the Commission to consider potential revenues from competitive bidding when making decisions concerning spectrum allocation;

"(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

"(D) grant any right to a spectrum licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding; or

"(E) prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology.

"(6) Moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury."

(c) STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.—Title VII of the Act (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 714. STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.

"A license or permit issued by the Commission under this Act shall not be treated as the property of the licensee for property tax purposes, or other similar tax purposes, by any State or local government entity.".

SEC. 4009. REGULATORY PARITY.

(a) AMENDMENT.—Section 332 of the Act (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending subsection (c) to read as follows:

"(c)(1)(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except that the Commission may waive the requirements of sections 203, 204, 205, and 214, and the 30-day notice provision of section 309(a), for commercial mobile services and such other provisions of title II as the Commission may, consistent with the public interest, specify by rule. In prescribing any such rule, the Commission may not waive for commercial mobile services the requirements of section 201, 202, 206, 208, 209, 215(c), 216, 217, 220 (d) or (e), 223, 225, 226 (a), (b), (c), (d), (e), (f), (g), or (i), 227, or 228, or any other provision that is necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or that is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to section 201. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection under this Act.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent that such dispatch service is provided on stations licensed by the Commission in the Specialized Mobile Radio Service prior to May 24, 1993, or is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence

if the commission determines that such termination will service the public interest.

"(3)(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the continued availability of telephone exchange service at affordable rates.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the communications within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(C) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service, such State may, no later than 1 year after the date of enactment of the Emerging Telecommunications Technologies Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. The State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission issues a final order granting or denying such petition. The Commission shall review such petition in accordance with the procedures and schedule established in subparagraph (B), and shall grant such petition if the State satisfies the showing required under subparagraph (B)(i) or (B)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under the State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(D) After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (B) or (C), any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

"(4) Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

"(5) The Commission shall continue to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

"(6) The provisions of section 310(b) shall not apply to any lawful foreign ownership in a provider of commercial mobile services prior to May 24, 1993, if that provider was not regulated as a common carrier prior to the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and is deemed to be a common carrier under this Act.

"(7) As part of any proceeding under this subsection the Commission (i) shall consider in such proceeding the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or, consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services.

"(8) For purposes of this section—

"(A) the term 'commercial mobile service' means any mobile service (as defined in section 3(n)) that, as specified by regulation by the Commission, is provided for profit and makes interconnected service available (i) to the public or (ii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public;

"(B) the term 'interconnected service' means service that is interconnected with the public switched network (as such term is defined by regulation by the Commission) or service for which interconnection pursuant to paragraph (1)(B) is pending; and

"(C) the term 'private land mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service under subparagraph (A).".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF MOBILE SERVICE.—Section 3 of the Act (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" immediately after "and includes"; and

(ii) by inserting immediately before the period at the end the following: ", (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding; but such term does not include any rural radio service as defined by the Commission and does not include the provision, by a local exchange carrier, of telephone exchange service by radio instead of by wire"; and

(B) by striking subsection (gg).

(2) REGULATION OF INTRASTATE COMMUNICATIONS.—Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting "and section 332" immediately after "inclusive,".

(c) RULEMAKING SCHEDULE; EFFECTIVE DATE.—

(1) RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this Act, the Commission shall—

(A) issue such modifications or terminations of its regulations as are necessary to implement the amendments made by subsection (a);

(B) make such other modifications of such regulations as may be necessary to promote parity in the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective 1 year after such date of enactment, except that—

(A) section 332(c)(1)(A) of the Act, as added by such amendments, shall take effect upon such date of enactment; and

(B) any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

SEC. 4010. DEADLINES FOR PCS ORDERS AND LICENSING.

The Commission shall—

(1) within 180 days after the date of enactment of this Act, issue a final report and order (A) in the matter entitled "Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies" (ET Docket No. 92-9); and (B) in the matter entitled "Amendment of the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100); and

(2) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

SEC. 4011. DEFINITIONS.

As used in this subtitle:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term "assignment" means an authorization given to a station licensee to use specific frequencies or channels in a particular geographic area.

(3) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "the Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

Subtitle B—Vessel Tonnage Duties

SEC. 4051. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking "and 1995," each place it appears and inserting in lieu thereof "1995, 1996, 1997, and 1998,";

(2) by striking "place," and inserting in lieu thereof "place;"; and

(3) by striking "port, not, however, to include vessels in distress or not engaged in trade" and inserting in lieu thereof "port. However, neither duty shall be imposed on vessels in distress or not engaged in trade".

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and inserting in lieu thereof "1995, 1996, 1997, and 1998.".

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-398) is amended by striking "in the second paragraph".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Recreation and Commercial Use Fees

SEC. 5001. ADMISSION FEES.

Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(a)), is amended:

(1) by inserting in the first sentence of the first paragraph after the words "National Park System" the words "and for fiscal years 1994 through 1998, the Bureau of Land Management" and by inserting after the words "National Recreation Areas" the words ", and for fiscal years 1994 through 1998, National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use"; and

(2) by adding at the end the following new paragraph:

"(13) For the purposes of this subsection, 'areas of concentrated public use' shall meet each of the following criteria:

"(A) be managed primarily for outdoor recreation purposes;

"(B) provide facilities and services necessary to accommodate heavy public use;

"(C) contain at least one major recreation attraction including, but not limited to, a lake, river, historical site, or geologic feature; and

"(D) provide public access such that admission fees can be efficiently collected at one or more centralized locations.".

SEC. 5002. RECREATION USE FEES.

(a) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by striking out "visitors' centers," and all that follows down through the period at the end thereof and inserting the following: "scenic drives, or toilet facilities: Provided, That in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, picnic tables, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site' includes but shall not be limited to campgrounds, swimming sites, boat launch facilities, and managed parking lots.".

(b) COSTS OF COLLECTION.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)) is amended by inserting "(A)" after "(1)" and by adding the following at the end of paragraph (1):

"(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year, the term 'additional fee collection costs' means those costs for personnel and infrastructure directly associated with the collection fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.".

(c) COMMERCIAL TOUR USE FEES.—(1) For fiscal years 1994 through 1998, in the case of each unit of the National Park System for which an admission fee is charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4), the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee per entry as follows:

(A) $25 per vehicle with a passenger capacity of 25 persons or less, and

(B) $50 per vehicle with a passenger capacity of more than 25 persons.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20-20g) entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes.".

(d) NON-FEDERAL GOLDEN EAGLE PASSPORT SALES.—Section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(a)(1)(A)) is amended by redesignating the paragraph as 4(a)(1)(A)(i) and adding at the end thereof the following new paragraph:

"(ii) For fiscal years 1994 through 1998, the Secretary of the Interior and the Secretary of Agriculture may authorize businesses, non-profit entities, and other organizations to sell and collect fees for the Golden Eagle Passport subject to such conditions as the Secretaries may jointly prescribe. The Secretaries shall develop detailed guidelines for promotional advertising of non-Federal Golden Eagle Passport sales and shall monitor compliance with such guidelines. The Secretaries may authorize the sellers to maintain an inventory of Golden Eagle Passports for periods not to exceed 6 months, and to withhold amounts up to, but not exceeding 7 per centum of the fees of the gross fees collected from the sale of such passports as reimbursement for actual expenses of the sales.".

SEC. 5002A. EXTENSION OF AUTHORITY TO COLLECT FEE.

The third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98-63 (97 Stat. 329) is amended by striking paragraph (3).

SEC. 5003. RADIO AND TELEVISION COMMUNICATION SITE FEES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture and the Secretary of the Interior (hereinafter referred to as "the Secretaries"), shall assess and collect charges for utilization of radio and television communications sites located on Federal lands administered by the Forest Service or the Bureau of Land Management at such rates as the Forest Service and the Bureau of Land Management shall establish or at such modified rates as are established pursuant to the provisions of subsection (b) of this section.

(b) The schedule of charges established under this section shall be reviewed by the Forest Service and the Bureau of Land Management on an annual basis, and shall be adjusted by the Forest Service and the Bureau of Land Management to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, but any increase or decrease shall not total less than 3 percent or more than 5 percent of the charge assessed to the user in the preceding year. The Bureau of Land Management and the Forest Service shall transmit to the Congress notification of any such adjustment not later than 60 days before the effective date of such adjustment.

(1) Under the schedule of charges established under the section, if any radio or television communications site user is to be charged an amount that is greater than $1,000 more than the amount such site user pays to the Bureau of Land Management or the Forest Service as of January 1, 1993, then during the first year in which the schedule of charges is in effect, such site user shall pay an amount equal to the amount it paid to the Bureau of Land Management or the Forest Service as of January 1, 1993 plus $1,000. Each year thereafter, such site user shall pay the full amount under the schedule of charges, as modified pursuant to the subsection.

(2) Under the schedule of charges established under this section, if any radio or television communications site user is to be charged an amount that is less than the amount such site user paid to the Bureau of Land Management or the Forest Service as of January 1, 1993, such site user shall continue to pay the higher amount until such time as the charge to the site user in the schedule of charges equals or exceeds that amount, as modified pursuant to this subsection.

(c)(1) If the radio or television communications site user is permitted under the terms of its site use authorization from the Bureau of Land Management or the Forest Service to grant access to the site to additional users, then the radio or television communications site user shall pay annually to the Bureau of Land Management or the Forest Service an amount equal to 25 percent of the gross income it receives from each such additional user during that year.

(2) Authorizations to radio and television communications site users shall require such site users to provide the Bureau of Land Management or the Forest Service with a certified list which identifies all additional users of such sites and all gross revenues received from such additional users. The Bureau of Land Management and the Forest Service shall not require any additional user of a radio or television communications site to obtain a separate authorization to use such a site.

(d)(1) The Secretaries shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(2) Ten years after the date of enactment of this section, the Secretaries shall establish a broad-based advisory group, including representatives from the radio and television broadcast industry, to review the schedule of charges and other acceptable criteria for determining fair market value for radio and television communications site users. The advisory group shall report its findings to the Congress no later than 1 year after it is established.

(e)(1) Until modified pursuant to subsection (b) of this section, the schedule of charges for television communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 3, (television rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(2) Until modified pursuant to subsection (b) of this section, the schedule of charges for radio communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 4, (radio rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(f)(1) The Secretaries are directed to jointly establish a broad-based advisory group comprised

of representatives from the non-broadcast communications industry (users of both private and public communication sites) and the two agencies to review recommendations on acceptable criteria for determining fair market values and next best alternative use.

(2) The advisory group shall review the methodology used in any previous studies and reach concurrence on such methodology.

(3) The advisory group shall also assess the validity of the results of such studies, taking into account all reasonable options for the establishment of fair market values and next best alternative use.

(4) The advisory group shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives within one year after the enactment of this Act.

Subtitle B—Hardrock Mining Claim Maintenance Fee

SEC. 5101. FEE.

(a) Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992, for each unpatented mining claim, mill or tunnel site on federally owned lands, whether located before or after enactment of this Act, each claimant shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of $100 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(b)(1) The claim maintenance fee required under this section shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28–28e) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term "all related parties" means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; or

(B) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; or

(ii) a subsidiary or parent company or corporation of the claimant.

(c)(1) The Secretary shall adjust the fees required by this section to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) A fee adjustment under this section shall begin to apply the calendar year following the calendar year in which it is made.

(d) Monies received under this section shall be deposited as miscellaneous receipts in the Treasury.

SEC. 5102. LOCATION.

(a) Notwithstanding any provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this subtitle and before September 30, 1998, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the fee required by section 5101, of $25.00 per claim.

(b) Moneys received under this section shall be deposited as miscellaneous receipts in the Treasury.

SEC. 5103. CO-OWNERSHIP.

The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

SEC. 5104. FAILURE TO PAY.

Failure to pay the claim maintenance fee as required by section 5101 of this subtitle shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

SEC. 5105. OTHER REQUIREMENTS.

(a) Nothing in this subtitle shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), which remain in effect.

(b) The third sentence of 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after "On each claim located after the 10th day of May, 1972," the following: "that is eligible for a waiver under section 5101 of the Omnibus Budget Reconciliation Act of 1993,".

SEC. 5106. REGULATIONS.

The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this subtitle as soon as practicable after the date of enactment of this subtitle.

Subtitle C—Commonwealth of Northern Mariana Islands Agreement

SEC. 5201. COMMONWEALTH OF NORTHERN MARIANA ISLANDS AGREEMENT.

Public Law 94–241 (90 Stat. 263), as amended, is further amended by striking "law" in subsection 4(b) and inserting in lieu thereof the following: "law: Provided, That for fiscal years 1994 through 1998, payments shall be limited to the amounts and for the purposes set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President and the special representatives of the Governor of the Northern Mariana Islands: Provided further, That after 1998, the amount shall continue at the annual amount of $27.720 million.

Subtitle D—Mineral Receipts

SEC. 5301. AMENDMENT TO THE MINERAL LEASING ACT.

Section 35 of the Mineral Leasing Act, as amended (30 U.S.C. 191) is amended as follows:

(1) by deleting the last sentence and redesignating the remaining language as subsection (a);

(2) by amending subsection (a) by inserting the words "and, subject to the provisions of subsection (b)," between the words "United States;" and "50 per centum";

(3) by adding a new subsection (b) as follows:

"(b)(1) In calculating the amount to be paid to States during any fiscal year under this section or under any other provision of law requiring payment to a State of any revenues derived from the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, 50 per centum of the portion of the enacted appropriation of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and in enforcing such laws, shall be deducted from the receipts derived under those laws in approximately equal amounts each month (subject to paragraph (4)) prior to the division and distribution of such receipts between the States and the United States.

"(2) The proportion of the deduction provided in paragraph (1) allocable to each State shall be determined by dividing the monies disbursed to the State during the preceding fiscal year derived from onshore mineral leasing referred to in paragraph (1) in that State by the total money disbursed to States during the preceding fiscal year from such onshore mineral leasing in all States.

"(3) In the event the deduction apportioned to any State under this subsection exceeds 50 per centum of the Secretary of the Interior's estimate of the amounts attributable to onshore mineral leasing referred to in paragraph (1) within that State during the preceding fiscal year, the deduction from receipts received from leases in that State shall be limited to such estimated amounts and the total amount to be deducted from such onshore mineral leasing receipts shall be reduced accordingly.

"(4) If the amount otherwise deductible under this subsection in any month from the portion of receipts to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months. If any amount remains to be carried forward at the end of the fiscal year, such amount shall not be deducted from any disbursements in any subsequent fiscal year.

"(5) All deductions to be made pursuant to this subsection shall be made in full during the fiscal year in which such deductions were incurred.

"(6) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.".

SEC. 5302. CONFORMING AMENDMENTS.

(a) Section 6 of the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 355), is amended by adding the following words "Subject to the provisions of 30 U.S.C. 191(b)," at the beginning of the first sentence.

(b) Section 5(a) of the Geothermal Steam Act, as amended (30 U.S.C. 1019), is amended by adding the words "Subject to the provisions of 30 U.S.C. 191(b)," at the beginning of that section.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 6001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

SEC. 6002. CORPS OF ENGINEERS RECREATION USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d–3) is amended—

(1) by inserting "(a)" before "No entrance";

(2) by striking the second sentence; and

(3) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)), the Secretary of the Army may charge fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

"(2) The Secretary may not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information.

"(3) Fees collected under this subsection shall be deposited into the special account established in the Treasury of the United States for the Army Corps of Engineers under section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)).".

(b) CONFORMING AMENDMENT.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by striking the second sentence.

TITLE VII—FINANCE COMMITTEE RECONCILIATION PROVISIONS RELATING TO MEDICARE, MEDICAID, AND OTHER PROGRAMS

SEC. 7000. AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", and "OBRA-1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(c) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Any reference in this title (or in any amendment made by this title) to the Omnibus Budget Reconciliation Act of 1993 shall be deemed to be a reference to this title.

(d) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 7000. Amendments to Social Security Act; references; table of contents.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A

Sec. 7101. Payment updates for inpatient hospital services.
Sec. 7102. Loss of regional referral center status.
Sec. 7103. Medicare-dependent, small rural hospital payment extension.
Sec. 7104. Elimination of return on equity for proprietary skilled nursing facilities.
Sec. 7105. Skilled nursing facility cost limits.

PART II—PROVISIONS RELATING TO PART B

SUBPART A—PHYSICIANS' SERVICES

Sec. 7201. Reduction in default update for conversion factor for 1994.
Sec. 7202. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update and classification of primary care services as a separate category of services.
Sec. 7203. Phased-in reduction in practice expense relative value units for certain services.
Sec. 7204. Limitation on payment for the anesthesia care team.
Sec. 7205. Separate payment for interpretation of electrocardiograms.
Sec. 7206. Payments for new physicians and practitioners.
Sec. 7207. Extra-billing limits.

SUBPART B—OUTPATIENT HOSPITAL SERVICES AND AMBULATORY SURGICAL SERVICES

Sec. 7221. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
Sec. 7222. Extension of reduction in payments for other costs of outpatient hospital services.
Sec. 7223. Reduction in payments for intraocular lenses.

SUBPART C—DURABLE MEDICAL EQUIPMENT

Sec. 7231. Revisions to payment rules for durable medical equipment.
Sec. 7232. Treatment of nebulizers and aspirators.
Sec. 7233. Payment for surgical dressings.
Sec. 7234. Payments for tens devices.

SUBPART D—PART B PREMIUM

Sec. 7251. Part B premium.

SUBPART E—OTHER PROVISIONS

Sec. 7261. Payments for clinical diagnostic laboratory tests.

PART III—PROVISIONS RELATING TO PARTS A AND B

Sec. 7301. Payments for direct graduate medical education costs.
Sec. 7302. Revision of home health agency cost limits.
Sec. 7303. Medicare as secondary payer.
Sec. 7304. Extension of self-referral ban to additional specified services.
Sec. 7305. Reduction in payment for erythropoietin.

Subtitle B—Medicaid Program

PART I—PROGRAM SAVINGS PROVISIONS

SUBPART A—REPEAL OF MANDATE

Sec. 7401. Personal care services furnished outside the home as optional benefit.

SUBPART B—OUTPATIENT PRESCRIPTION DRUGS

Sec. 7411. Permitting prescription drug formularies under State plans.
Sec. 7412. Elimination of special exemption from prior authorization for new drugs.
Sec. 7413. Modifications to drug rebate program.

SUBPART C—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

Sec. 7421. Medicaid estate recoveries.
Sec. 7422. Transfers of assets.
Sec. 7423. Treatment of certain trusts.

SUBPART D—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

Sec. 7431. Liability of third parties to pay for care and services.
Sec. 7432. Medical child support.
Sec. 7433. Offset of payment obligations relating to medical assistance against overpayments of State and Federal income taxes.

SUBPART E—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

Sec. 7441. Assuring proper payments to disproportionate share hospitals.

SUBPART F—ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 7451. Application of medicare rules limiting certain physician referrals.

PART II—OTHER MEDICAID PROVISIONS

Sec. 7501. Extension of demonstration project on the effect of allowing States to extend medicaid coverage to certain low-income families.

Subtitle C—Income Security Programs

Sec. 7601. Matching of State administrative costs.
Sec. 7602. State paternity establishment programs.
Sec. 7603. Fees for Federal administration of State supplementary payments.

Subtitle D—Miscellaneous Provisions

PART I—TRADE PROVISIONS

Sec. 7701. Extension of authority to levy customs user fees.
Sec. 7702. Extension of, and authorization of appropriations for, trade adjustment assistance program.

PART II—IMPROVED ACCESS TO CHILDHOOD IMMUNIZATIONS

Sec. 7801. Reimbursement to vaccine manufacturers.
Sec. 7802. State option to provide that certain payments under AFDC are conditioned on receipt of immunizations.

PART III—DISCLOSURE PROVISIONS

Sec. 7901. Disclosure of return information for administration of certain veterans programs.
Sec. 7902. Disclosure of return information to carry out income contingent repayment of student loans.
Sec. 7903. Use of return information for income verification under certain housing assistance programs.
Sec. 7904. Use of return information for health coverage clearinghouse.

PART IV—OTHER PROVISIONS

Sec. 7950. Disallowance of interest on certain overpayments of tax.
Sec. 7951. Fees for applications for alcohol labeling and formula reviews.
Sec. 7952. Use of Harbor Maintenance Trust Fund amounts for administrative expenses.
Sec. 7953. Increase in presidential election campaign fund check-off.
Sec. 7954. Increase in public debt limit.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A

SEC. 7101. PAYMENT UPDATES FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION.—

(1) PPS HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) in the matter preceding subclause (I), by striking "fiscal year" and inserting "particular time period",

(ii) in subclause (VIII), by inserting "and the 3 succeeding months" after "fiscal year 1993",

(iii) in subclause (IX)—

(I) by striking "fiscal year",

(II) by inserting "minus 2.18 percentage points" after "market basket percentage increase" the first place it appears, and

(III) by striking "plus 1.5 percentage points" and inserting "minus .68 percentage point",

(iv) in subclause (X)—

(I) by striking "fiscal year",

(II) by inserting "minus 2.27 percentage points" after "market basket percentage increase", and

(III) by striking "and" at the end,

(v) in subclause (XI)—

(I) by striking "for fiscal year 1996 and each subsequent fiscal year" and inserting "for 1996",

(II) by inserting "minus 2.0 percentage points" after "market basket percentage increase", and

(III) by striking the period and inserting a comma, and

(vi) by adding at the end the following new subclauses:

"(XII) for 1997, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and

"(XIII) for 1998 and each subsequent year, the market basket percentage increase for hospitals in all areas.".

(B) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A) (42 U.S.C. 1395ww(d)(3)(A)) is amended by adding at the end the following new clause:

"(vi) For discharges occurring on or after January 1, 1995, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average standardized amount.".

(2) OTHER HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) by striking ", (C), (D),"

(B) by striking "and" at the end of subclause (III),

(C) by striking subclause (IV) and inserting the following new subclauses:

"(IV) fiscal years 1988 through 1993 and the 3 succeeding months, is the market basket percentage increase,

"(V) 1994, is 75 percent of the difference between the market basket percentage increase and 1.0 percentage point,

"(VI) 1995 through 1997, is the market basket percentage increase minus 1.0 percentage points, and

"(VII) 1998 and each subsequent year, is the market basket percentage increase.".

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(iv) For purposes of subparagraphs (C) and (D), the applicable percentage increase for discharges occurring during—

"(I) cost reporting periods beginning in fiscal year 1986 through fiscal year 1993 and the 3 succeeding months, is the increase specified in clause (ii),

"(II) for 1994, is 75 percent of the difference between the market basket percentage increase and 2.0 percentage points,

"(III) for 1995, is the market basket percentage increase, minus 2.0 percentage points, and

"(IV) for 1996 and each subsequent year, is the increase described in clause (i) for such year.

For purposes of subclause (I), the annual update applied for a cost reporting period beginning during calendar year 1993 is adjusted to reflect only the time period occurring from the beginning of the hospital's cost reporting period through December 31, 1993.".

(B) TARGET AMOUNT ADJUSTMENT.—

(i) SOLE COMMUNITY HOSPITAL.—Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(I) in clause (i)(II), by striking "or",

(II) in clause (ii)—

(aa) by inserting "or portion of a cost reporting period occurring before December 31, 1993," before "the target amount",

(bb) by striking "subparagraph (B)(ii)" and inserting "subparagraph (B)(iv)", and

(cc) by striking the period at the end and inserting a comma, and

(dd) by adding at the end the following new clauses:

"(iii) with respect to discharges occurring in 1994, the target amount for the cost reporting period beginning in 1993 increased by the applicable percentage increase under subparagraph (B)(iv), or

"(iv) with respect to discharges occurring in 1995 and each subsequent year, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(ii) MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(I) in clause (i)(II), by striking "or",

(II) in clause (ii)—

(aa) by inserting "or portion of a cost reporting period occurring before December 31, 1993," before "the target amount",

(bb) by striking "subparagraph (B)(ii)" and inserting "subparagraph (B)(iv)", and

(cc) by striking the period at the end and inserting ", or" and

(dd) by adding at the end the following new clause:

"(iii) with respect to discharges occurring in 1994, the target amount for the cost reporting period beginning in 1993 increased by the applicable percentage increase under subparagraph (B)(iv).".

(4) DELAY IN INCREASE IN DISPROPORTIONATE SHARE PAYMENTS FOR CERTAIN URBAN HOSPITALS.—Section 1886(d)(5)(F)(vii)(II) (42 U.S.C. 1395ww(d)(5)(F)(vii)(II)) is amended—

(A) in subdivision (b), by striking "September 30, 1993" and inserting "December 31, 1993", and

(B) in subdivision (c), by striking "October 1, 1993" and inserting "January 1, 1994".

(5) REGIONAL FLOOR EXTENDED.—Section 1886(d)(1)(A) (42 U.S.C. 1395ww(d)(1)(A)) is amended—

(i) in clause (ii), by striking "or" at the end;

(ii) in clause (iii), by striking "September 30, 1993, " and inserting "December 31, 1993"; and

(iii) by adding at the end the following new clause:

"(iv) beginning on and after January 1, 1994, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1886(b)(3)(B)(iii) (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(A) by inserting "beginning in" after "cost reporting periods",

(B) by striking "fiscal year" the first place it appears and inserting "particular time period",

(C) by striking "or fiscal year" the first and second place it appears, and

(D) by striking "cost reporting period or fiscal year" and inserting "period".

(2) The first sentence in the matter in section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) preceding subparagraph (A) is amended by inserting "or calendar" after "fiscal" the first place it appears.

(3) Section 1886(d)(3)(A)(ii) (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(A) by striking "1994," and inserting "1992, in the 15-month period beginning on October 1, 1992, and in 1994,", and

(B) by striking "fiscal year" the second and third place it appears and inserting "time period".

(4) Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking "the fiscal year beginning on October 1, 1994" and inserting "1995".

(5) Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(A) by striking "fiscal year beginning on or after October 1, 1995" and inserting "year beginning on or after January 1, 1996",

(B) by striking "and within each region", and

(C) by striking "fiscal" each place it appears.

(6) Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) by inserting "or calendar" after "fiscal" each place it appears, and

(B) by inserting "for each fiscal year through 1993" after "and shall establish".

(7) Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(A) in the second sentence, by striking "October 1, 1993" and inserting "January 1, 1994", and

(B) in the last sentence, by inserting "or calendar" after "fiscal" the first and last place it appears.

(8)(A) Section 1886(d)(4)(C)(iii) (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(i) by inserting "or calendar" after "fiscal" the first place it appears, and

(ii) by deleting "fiscal" the third place it appears.

(B) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1992, and ending on December 31, 1993.

(9) Section 1886(d)(4)(E) is (42 U.S.C. 1395ww(d)(4)(E)) is amended by striking "October 1, 1993" and inserting "January 1, 1994".

(10)(A) Section 1886(d)(5)(A)(iv) (42 U.S.C. 1395ww(d)(5)(A)(iv)) is amended by inserting "or calendar" after "fiscal".

(B) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1992, and ending on December 31, 1993.

(11) Section 1886(d)(5)(B)(i) (42 U.S.C. 1395ww(d)(5)(B)(i)) is amended by striking "or, if applicable, the amount determined under paragraph (1)(A)(iii)" and inserting "or, the amount determined under paragraphs (1)(A)(iii) or (1)(A)(iv), as applicable".

(12) Section 1886(d)(5)(E)(ii) (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting "or calendar" after "fiscal".

(13) Section 1886(d)(6) (42 U.S.C. 1395ww(d)(5)(6)) is amended by striking "the September 1 before each fiscal year (beginning with fiscal year 1984)" and inserting "December 1 each year".

(14) The matter in section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) preceding clause (i) is amended by striking "fiscal year" and inserting "particular time period".

(15) Section 1886(d)(9)(C)(i) (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(A) by striking "fiscal year" the first place it appears and inserting "time period", and

(B) by striking "fiscal years" and inserting "time periods".

(16) Subparagraphs (A) and (B) of section 1886(e)(3) (42 U.S.C. 1395ww(e)(3)) are each amended by striking "that fiscal year" and inserting "the coming fiscal or calendar year".

(17) The first sentence of section 1886(e)(4)(A) (42 U.S.C. 1395ww(e)(4)(A)) is amended by inserting "or calendar" after "fiscal" the first and last place it appears.

(18) Section 1886(e)(4)(B) (42 U.S.C. 1395ww(e)(4)(B)) is amended by inserting "or calendar" after "fiscal".

(19) Section 1886(e)(5)(A) (42 U.S.C. 1395ww(e)(5)(A)) is amended by striking "that fiscal year" and inserting "the coming fiscal or calendar year".

(20) The second and third sentences of section 1886(e)(5) (42 U.S.C. 1395ww(e)(5)) are each amended by inserting "or calendar" after "fiscal" each place it appears.

SEC. 7102. LOSS OF REGIONAL REFERRAL CENTER STATUS.

(a) CONTINUATION OF OTHER URBAN PAYMENT RATE THROUGH CALENDAR YEAR 1994.—Effective on the date of the enactment of this Act, any hospital that was classified as a regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, shall continue to be paid under this subsection the standardized amount for hospitals located in other urban areas for discharges occurring before the earlier of—

(1) January 1, 1995, or

(2) the reclassification of such hospital as an urban hospital under section 1886(d)(10)(C) of such Act.

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(1) IN GENERAL.—In the case of any regional referral center described in subsection (a), the Secretary of Health and Human Services shall make a lump-sum payment to the center equal to the difference between—

(A) the aggregate payment made to the center under section 1886 of the Social Security Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2), and

(B) the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center had been paid as if subsection (a) of this section had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 7103. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) EXTENSION OF ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i)—

(i) by inserting "(or portion thereof)" after "cost reporting period" in the matter preceding subclause (I), and

(ii) by striking "March 31, 1993," and all that follows and inserting: "January 1, 1995, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under clause (iii) or (iv) of paragraph (1)(A).";

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(C) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is—

"(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under clause (iii) or (iv) paragraph (1)(A); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under clause (iii) or (iv) of paragraph (1)(A).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the amendment made by section 6003(f) of OBRA-1989.

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994 the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(1) IN GENERAL.—In the case of a hospital treated as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump-sum payment to the hospital equal to the difference between—

(A) the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2), and

(B) the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, section 1886(d)(5)(G) of such Act had been applied as if—

(i) the reference in clause (i) to "March 31, 1993," had been deemed a reference to "January 1, 1995,"; and

(ii) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is, with respect to a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 7104. ELIMINATION OF RETURN ON EQUITY FOR PROPRIETARY SKILLED NURSING FACILITIES.

(a) REPEAL OF REQUIREMENT FOR RETURN ON EQUITY.—(1) Section 1861(v)(1)(B) (42 U.S.C. 1395x(v)(1)(B)) is amended to read as follows:

"(B) In the case of extended care services, the regulations under subparagraph (A) shall not include provision for specific recognition of a return on equity capital.".

(2) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is amended by striking "the rate of return on equity capital established by regulation pursuant to section 1861(v)(1)(B) and in effect at the time" and inserting "the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for each of the months any part of which is included in the cost reporting period in which".

(3) Section 1881(b)(2)(C) (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking all that follows "capital" up to the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to portions of cost reporting periods occurring on or after October 1, 1993.

SEC. 7105. SKILLED NURSING FACILITY COST LIMITS.

(a) SKILLED NURSING FACILITY COST LIMITS.—

(1) IN GENERAL.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "112 percent of the mean" and inserting "110 percent of the median" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

(b) SKILLED NURSING FACILITY WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a) of the Social Security Act.

(c) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 31, 1994, study and report to the Congress on the impact of applying the routine per diem cost limits for skilled nursing facilities on a regional basis.

PART II—PROVISIONS RELATING TO PART B

Subpart A—Physicians' Services

SEC. 7201. REDUCTION IN DEFAULT UPDATE FOR CONVERSION FACTOR FOR 1994.

Section 1848(d)(3)(A) (42 U.S.C. 1395w-4(d)(3)(A)) is amended—

(1) in clause (i), by striking "clause (iii)" and inserting "clauses (iii) and (iv)", and

(2) by adding at the end the following new clause:

"(iv) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1994.—In applying clause (i) for services (other than primary care services) furnished in 1994, the percentage increase in the appropriate update index shall be reduced by—

"(I) 8 percentage points for surgical services (as defined for purposes of subsection (j)(1)), and

"(II) 4.4 percentage points for other services.".

SEC. 7202. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE AND CLASSIFICATION OF PRIMARY CARE SERVICES AS A SEPARATE CATEGORY OF SERVICES.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-4(f)(2)(B)) is amended to read as follows:

"(B) PERFORMANCE STANDARD FACTOR.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the performance standard factor—

"(I) for 1993 is 2 percentage points,

"(II) for 1994 is 3½ percentage points, and

"(III) for each succeeding year is 4 percentage points.

"(ii) PRIMARY CARE SERVICES.—The performance standard factor for primary care services (as defined in section 1842(i)(4)) is 0 percentage points.".

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking "or 1995", and

(2) in subclause (III), by striking "3" and inserting "5".

(c) CLASSIFICATION OF PRIMARY CARE SERVICES AS SEPARATE CATEGORY OF SERVICES.—

(1) IN GENERAL.—Section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended by inserting ", primary care services (as defined in section 1842(i)(4)), " after "Secretary)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning on or after October 1, 1993, and

(B) to updates in the conversion factors for physicians' services established under section 1848(d) of such Act for physicians' services to be furnished in calendar years beginning after 1995.

SEC. 7203. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physician's service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 7204. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of 2, 3, or 4 concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting "and before January 1, 1994," after "1991,";

(2) in clause (ii)—

(A) by adding "and" at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

(3) by adding at the end the following new clause:

"(iii) In the case of services of a certified registered nurse anesthetist who is medically directed or medically supervised by a physician which are furnished on or after January 1, 1994, the fee schedule amount shall be 50 percent of the amount described in section 1848(a)(5)(B) with respect to the physician.".

SEC. 7205. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w-4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by section 7203(a), is further amended by adding at the end the following new subparagraph:

"(F) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 7205(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 7205(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and as adjusted under subsection (c)(2)(F)(ii)" after "for 1994";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (F)(i).": and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(F),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 7206. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w-4(a)), as amended by section 7204(a), is further amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 7205(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and under section 7206(b) of the Omnibus Budget Reconciliation Act of 1993" after "subsection (c)(2)(F)(ii)";

(2) in subsection (c)(2)(A)(i), by inserting "and section 7206(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subparagraph (F)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 7206(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subsection (c)(2)(F)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 7207. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills,

but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a reduction or refund under clauses (iii) and (iv) of subparagraph (A) shall be treated as done on a timely basis if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w-4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) in subsection (a)(3)—

(i) by inserting "AND SUPPLIERS" after "PHYSICIANS" in the heading,

(ii) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(iii) by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(C) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the preceding sentence.", and

(ii) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(E) in subsection (h)—

(i) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(ii) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(iii) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(F) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)," after "tests and".

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include",

(C) in subparagraph (C), by striking the period at the end and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and" after "report to the Congress".

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)—

(A) by striking "and" before "(N)";

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA-1990—

(i) by striking "(M)" and inserting ", and (O)"; and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end;

(C) by striking "and" before "(O)", and

(D) by inserting before the semicolon at the end the following: ", and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)"; and

(2) in subsection (h)(5)(D)—

(A) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)", and

(B) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning after 1993.

Subpart B—Outpatient Hospital Services and Ambulatory Surgical Services

SEC. 7221. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1992, 1993, 1994, or 1995" and inserting "fiscal years 1992 through 1998".

SEC. 7222. EXTENSION OF REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ", 1992, 1993, 1994, or 1995" and inserting "through 1998".

SEC. 7223. REDUCTION IN PAYMENTS FOR INTRAOCULAR LENSES.

(a) PAYMENT FOR INTRAOCULAR LENS.—Section 4151(c)(3) of OBRA-1990 is amended—

(1) by striking "center" and all that follows and inserting "center—

"(A) on or after the date of the enactment of this Act and on or before December 31, 1993, shall be equal to $200; and

"(B) on or after January 1, 1994, and on or before December 31, 1998, shall be equal to $150."; and

(2) in the heading, by striking "2-YEAR FREEZE IN ALLOWANCE" and inserting "ALLOWANCE".

(b) CONFORMING AMENDMENTS.—

(1) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(A)(i) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(ii) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(B) Section 4151(c)(3) of OBRA-1990, as amended in subsection (a), is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(2) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(A) Notwithstanding section 4151(c)(3) of OBRA-1990 (as amended by subsection (a)), the Secretary of Health and Human Services (in this paragraph referred to as the "Secretary") shall, not later than 1 year after the date of the enactment of this Act, develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology intraocular lens unless it has been approved by the Food and Drug Administration.

(B) In determining whether to provide an adjustment of payment with respect to a particular lens under subparagraph (A), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(C) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(D) Any adjustment of a payment amount (or payment limit) made under this paragraph shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under subparagraph (C).

(3) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(A) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(i) by striking "for reporting" and inserting "for portions of cost reporting"; and

(ii) by striking "and on or before" and inserting "and ending on or before".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the enactment of OBRA-1990.

Subpart C—Durable Medical Equipment

SEC. 7231. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "1992" the first place it appears and inserting "1992, 1993, and 1994"; and

(ii) by striking "1992" the second place it appears and inserting "the year".

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "and" at the end of subclause (I);

(ii) by redesignating subclause (II) as (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

"(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

"(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such clause for such item or device for that year, and".

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking "1992" and inserting "1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1991 and 1992" and inserting "1991, 1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year; and".

(b) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) IN GENERAL.—Section 1834(h)(2) (42 U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(B) in subparagraph (B)(ii), by striking "each subsequent year" and inserting "1993";

(C) in subparagraph (C)(iv), by striking "regional purchase price computed under subparagraph (B)" and inserting "national limited purchase price computed under subparagraph (E)";

(D) in subparagraph (D)(ii), by striking "a subsequent year" and inserting "1993"; and

(E) by adding at the end the following new subparagraph:

"(E) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the median of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the applicable percentage increase for such subsequent year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7232. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "(such as ventilators, aspirators, IPPB machines, and nebulizers)".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is an accessory used in conjunction with a nebulizer or aspirator,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7233. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 7207(e)(1), is amended—

(1) by striking "and" before "(P)", and

(2) by inserting before the semicolon at the end the following: ", and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7234. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

Subpart D—Part B Premium

SEC. 7251. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking "December 1983 and prior to January 1991 shall be an amount equal to 50 percent" and inserting "after December 1995 and prior to January 1999 shall be an amount equal to 50 percent", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

Subpart E—Other Provisions

SEC. 7261. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) in clause (iv), by inserting "and before January 1, 1994," after "1990,",

(3) by striking the period at the end of clause (iv) and inserting ", and", and

(4) by adding at the end the following:

"(v) after December 31, 1993, is equal to 76 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) NO UPDATE FOR 1994 THROUGH 1998.—Section 1833(h)(2)(A)(ii)(II) (42 U.S.C. 1395l(h)(2)(A)(ii)(III)) is amended by inserting "1994, 1995, 1996, 1997, and 1998" after "1988".

PART III—PROVISIONS RELATING TO PARTS A AND B

SEC. 7301. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) WEIGHTING FACTORS.—Section 1886(h)(4)(C) (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as follows:

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (D), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) with respect to residents entering an approved medical residency training program before September 1, 1993—

"(I) for a resident who is in the resident's initial residency period, the weighting factor is 1.00, and

"(II) for a resident who is not in the resident's initial residency period, the weighting factor is .50; and

"(ii) with respect to residents entering an approved medical residency training program on or after September 1, 1993—

"(I) for a resident who is in the resident's initial residency period, and is in—

"(aa) a primary care residency, the weighting factor is 1.10, and

"(bb) any other residency, the weighting factor is 0.70, and

"(II) for a resident who is not in the resident's initial residency period, the weighting factor is 0.50.".

(b) INITIAL RESIDENCY PERIOD.—

(1) IN GENERAL.—Section 1886(h)(5)(F) (42 U.S.C. 1395ww(h)(5)(F)) is amended by striking "plus one year".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after July 1, 1995.

(c) PRIMARY CARE RESIDENCY.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

"(I) PRIMARY CARE RESIDENCY.—The term 'primary care residency' means a residency training program in family medicine, general internal medicine, general pediatrics, preventive care, geriatric care, or osteopathic general practice.".

(d) PREVENTIVE CARE SERVICES AS PART OF INITIAL RESIDENCY PERIOD.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting "or a preventive care residency or fellowship program" after "fellowship program".

(e) SUCCESSOR EXAMS INCLUDED IN DEFINITION OF FMGEMS EXAMINATION.—

(1) IN GENERAL.—Section 1886(h)(5)(E) is amended by inserting "or any successor examination" after "Medical Sciences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

(f) REPORT BY THE SECRETARY.—

(1) RECOMMENDATIONS.—The Secretary shall make recommendations—

(A) concerning the extent to which variation in the approved FTE per resident amounts should be reduced;

(B) whether the approved FTE per resident amounts should be adjusted to account for substantial changes in the operation of an approved medical residency training program since the base year calculation; and

(C) potential changes in the graduate medical education payment system that would promote residency training in nonhospital ambulatory site.

(2) REPORT.—Not later than July 31, 1994, the Secretary shall deliver a report to Congress which shall contain recommendations on each of the matters under paragraph (1).

SEC. 7302. REVISION OF HOME HEALTH AGENCY COST LIMITS.

(a) IN GENERAL.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in clause (i), by striking "for cost reporting periods" and all that follows through to the period and inserting "110 percent of the median of the labor-related and nonlabor per visit costs for home health agencies.", and

(2) in clause (ii), by striking "specific basis," and all that follows through "agencies." and inserting "specific basis.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 7303. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF AND MODIFICATIONS TO DATA MATCH PROGRAM.—(1)(A) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

(B) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i), by striking "1995" and inserting "1998",

(ii) in clause (ii)(I), by striking "1994" and inserting "1997", and

(iii) in clause (ii)(II), by striking "1995" and inserting "1998".

(2)(A) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "section 3401(a))".

(B) The matter in section 6103(l)(12)(B)(ii) of such Code preceding subclause (I) is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "wages".

(C) The heading to section 6103(l)(12) of such Code is amended by striking "TAXPAYER IDENTITY" and inserting "RETURN".

(3)(A) Section 6103(l)(12) of the Internal Revenue Code of 1986, as amended by paragraph (1), is amended—

(i) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and

(ii) by inserting after subparagraph (D) the following new subparagraph:

"(E) DISCLOSURE CONCERNING ENFORCEMENT ACTIVITIES.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary of Health and Human Services the status of any activities undertaken (with respect to persons specified by the Secretary of Health and Human Services) to enforce the requirements of section 5000.".

(B) Section 6103(l)(12)(D)(i) of such Code is amended by striking "this paragraph" and inserting "subparagraphs (A) through (C)".

(C) The heading to section 6103(l)(12) of such Code is amended by inserting "AND FOR FACILITATION OF ENFORCEMENT OF MEDICARE SECONDARY PAYER REQUIREMENTS" before the period.

(D) Section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(F)(iii)".

(b) PERMANENT APPLICATION TO DISABLED ACTIVE INDIVIDUALS.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iii).

(c) APPLICATION OF ESRD RULES TO CERTAIN AGED AND DISABLED BENEFICIARIES AND INCREASE IN MEDICARE SECONDARY PAYER COVERAGE FOR ESRD SERVICES TO 24-MONTHS.—(1) Subparagraphs (A)(iv) and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended—

(A) by striking "Clause (i) shall not apply" and inserting "Subparagraph (C) shall apply instead of clause (i)", and

(B) by inserting "(without regard to entitlement under section 226)" after "individual is, or".

(2) Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the second sentence, by striking "on or before January 1, 1996" and inserting before "January 1, 1994", and

(B) by adding at the end the following: "Effective for items and services furnished on or after January 1, 1994, and before October 1, 1998, (with respect to periods beginning on or after July 1, 1992), this subparagraph shall be applied by substituting '24-month' for '12-month' each place it appears.".

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 is amended by striking "of section 1862(b)(1)" and inserting "of paragraph (1), or with the requirements of paragraph (2), of section 1862(b).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for repayment issued after the date of the enactment of this Act.

(e) RETROACTIVE EXEMPTION FOR CERTAIN SITUATIONS INVOLVING RELIGIOUS ORDERS.—Section 1862(b)(1)(D) of the Social Security Act (42 U.S.C. 1395y(b)(1)(D)) applies, with respect to items and services furnished before October 1, 1989, to any claims that the Secretary of Health and Human Services had not identified before that date as subject to the provisions of this subsection.

(f) UNIFORM RULES FOR SIZE OF EMPLOYER.—(1) Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(E) GENERAL PROVISIONS.—

"(i) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Subparagraphs (A) through (C) shall not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(ii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Subparagraphs (A) through (C) shall not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year; but the exception provided in this clause applies only if the plan elects treatment under this clause.

"(iii) SPECIAL RULES.—For purposes of clauses (i) and (ii)—

"(I) all employees of corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to section 1563(a)(4) or section (e)(3)(C) of such Code), shall be treated as employed by a single employer,

"(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of such Code) shall be treated as employed by a single employer,

"(III) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer, and

"(IV) leased employees (as defined in section 414(n)(2) of such Code) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n) of such Code.

In applying sections of the Internal Revenue Code under this clause, the Secretary shall rely upon regulations and decisions of the Secretary of the Treasury respecting such sections.".

"(iv) GROUP HEALTH PLAN DEFINED.—For purposes of this subsection, the term 'group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986, without regard to section 5000(d) of such Code.

"(v) CURRENT EMPLOYMENT STATUS DEFINED.—For purposes of this subsection, an individual has 'current employment status' with an employer if the individual is an employee, is the employer, or is associated with the employer in a business relationship.

"(vi) EMPLOYER DEFINED.—For purposes of this subsection, the term 'employer' includes a self-employed person.".

(2)(A) Section 1862(b)(1)(A)(i)(I) (42 U.S.C. 1395y(b)(1)(A)(i)(I)) is amended to read as follows:

"(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and".

(B) Section 1862(b)(1)(A)(i)(II) (42 U.S.C. 1395y(b)(1)(A)(i)(II)) is amended to read as follows:

"(II) shall provide that any individual age 65 or over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.".

(C) Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by subsection (c)(1), is amended—

(i) by striking clauses (ii), (iii), and (v), and

(ii) by redesignating clause (iv) as clause (ii).

(3)(A) Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)(i)) is amended—

(i) by striking the heading and inserting the following new heading:

"(B) DISABLED INDIVIDUALS UNDER GROUP HEALTH PLANS.—", and

(ii) by striking clause (i) and inserting the following new clause:

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(b).".

(B) Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iv).

(4) Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the matter preceding clause (i), by striking "(as defined in subparagraph (A)(v))",

(B) by striking "solely" each place it appears,

(C) by striking "by reason of" and inserting "under" each place it appears, and

(D) by inserting "or eligible for" after "entitled to" the first and last place it appears.

(5) The second sentence of section 1862(b)(2)(A) (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "or large group health plan".

(6)(A) Subsection (a) of section 5000 of the Internal Revenue Code of 1986 is amended by inserting "(including a self-employed person)" after "employer";

(B) Subsection (b) of section 5000 of such Code is amended to read as follows:

"(b) GROUP HEALTH PLAN.—The term 'group health plan' means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families."; and

(C) Subsection (c) of section 5000 of such Code by striking "or large group health plan".

(D) Section 6103(l)(12)(F)(ii) of such Code (as redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means any group health plan (as defined in section 5000(b)).".

(g) EFFECTIVE DATE.—The amendments made by subsections (c)(1), (d), and (f) apply to items and services furnished after the third calendar month beginning after the date of enactment of this Act.

SEC. 7304. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

(a) EXTENSION TO DESIGNATED HEALTH SERVICES.—

(1) IN GENERAL.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by adding at the end the following new paragraph:

"(8) DESIGNATED HEALTH SERVICES.—The term 'designated health services' means—

"(A) clinical laboratory services;

"(B) physical or occupational therapy services;

"(C) radiology or other diagnostic services;

"(D) radiation therapy services;

"(E) the furnishing of durable medical equipment;

"(F) the furnishing of parenteral and enteral nutrition nutrients, supplies, and equipment;

"(G) home health services; and

"(H) the furnishing of prosthetics, orthotics, and prosthetic devices.".

(2) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by striking "clinical laboratory services" and "CLINICAL LABORATORY SERVICES" and inserting "designated health services" and "DESIGNATED HEALTH SERVICES", respectively, each place either appears in subsections (a)(1), (b)(2)(A)(ii), (d)(1), (d)(2), and (d)(3); and

(B) by striking "clinical laboratory service" and inserting "designated health service" each place it appears in subsections (g)(1) and (h)(7)(B).

(b) MODIFICATION TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended—

(1) by inserting "(other than durable medical equipment and parenteral and enteral nutrition equipment and supplies)" after "services" the first place it appears; and

(2) in subparagraph (A)(ii)(II), by striking "centralized provision" and inserting "provision of some or all".

(c) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—

(A) IN GENERAL.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee, except that the lessee may make payments

for the use of space consisting of common areas if such payments do not exceed the lessee's pro rata share of expenses for such space based upon the ratio of the space used exclusively by the lessee to the total amount of space (other than common areas) occupied by all persons using such common areas,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(B) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking paragraphs (5) and (6) and by redesignating paragraphs (7) and (8) (as added by subsection (a)(1)) as paragraphs (5) and (6), respectively.

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e)(2) (42 U.S.C. 1395nn(e)(2)) is amended—

(A) by striking "AND SERVICE" and "WITH HOSPITALS";

(B) by striking "An arrangement" and all that follows through "if" and inserting "Any amount paid by an employer to a physician (or an immediate family member of such physician) who has a bona fide employment relationship with the employer for the provision of services if";

(C) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment relationship";

(D) in subparagraph (C), by striking "hospital" and inserting "employer"; and

(E) by adding at the end the following new flush sentence:

"Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of a productivity bonus based on services performed personally by the physician (or an immediate family member of such physician).".

(3) PERSONAL SERVICE ARRANGEMENTS.—Section 1877(e)(3) (42 U.S.C. 1395nn(e)(3)) is amended to read as follows:

"(3) SERVICE ARRANGEMENTS.—

"(A) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

"(i) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

"(ii) the arrangement covers all of the services to be provided,

"(iii) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

"(iv) the term of the arrangement is for at least one year,

"(v) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement of other activity that violates any State or Federal law, and

"(vii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) OTHER SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

"(i) the arrangement is—

"(I) for specific identifiable services as the medical director or as a member of a medical advisory board at the entity pursuant to a requirement of this title,

"(II) for specific identifiable physicians' services to be furnished to an individual receiving hospice care if payment for such services may only be made under this title as hospice care,

"(III) for specific physicians' services furnished to a nonprofit blood center, or

"(IV) for specific identifiable administrative services (other than direct patient care services), but only under exceptional circumstances specified by the Secretary in regulations;

"(ii) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to an employer; and

"(iii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) HEALTH SERVICES FURNISHED UNDER CERTAIN HOSPITAL ARRANGEMENTS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL.—

"(A) IN GENERAL.—An arrangement between a hospital and a group under which designated health services are provided by the group but are billed by the hospital if—

"(i) the group would be a group practice, but for the fact that it bills for such services through the hospital;

"(ii) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(iii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iv) the group provides substantially all of the designated health services furnished under the arrangement to the hospital's patients;

"(v) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the arrangement;

"(vi) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(viii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(5) ADDITIONAL EXCEPTION.—Section 1877(e) (42 U.S.C. 1395nn(e)) is further amended by adding at the end the following new paragraph:

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory diagnostic tests, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.".

(6) REFERRING PHYSICIANS.—Subparagraph (C) of section 1877(h)(5) (42 U.S.C. 1395nn(h)(5)), as redesignated by subsection (c)(1)(B), is amended—

(A) by inserting "a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," after "examination services,", and

(B) by inserting ", radiologist, or radiation oncologist" after "pathologist" the second place it appears.

(7) CONFORMING AMENDMENT.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(d) REQUIREMENTS FOR GROUP PRACTICE.—

(1) ADDITIONAL REQUIREMENTS.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended to read as follows:

"(4) GROUP PRACTICE.—

"(A) DEFINITION OF GROUP PRACTICE.—The term 'group practice' means a group of 2 or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(i) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

"(ii) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(iii) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group;

"(iv) except as provided in subparagraph (B)(i), in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician;

"(v) in which, on average, there are no less than 5 physicians per office location, but if a group has less than 15 physicians such group may have up to 3 office locations any one of which may have less than 5 physicians;

"(vi) in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

"(vii) which meets such other standards as the Secretary may impose by regulation.

"(B) SPECIAL RULES.—

"(i) PROFITS AND PRODUCTIVITY BONUSES.—A physician in a group practice may be paid a share of overall profits of the group, or a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician.

"(ii) FACULTY PRACTICE PLANS.—In the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, subparagraph (A) shall be applied only with respect to the services provided within the faculty practice plan.

"(C) DEFINITION OF OFFICE LOCATION.—For purposes of this paragraph, the term 'office location' means an office where physician services are offered to patients except that—

"(i) such term does not include—

"(I) a location consisting solely of a diagnostic facility, nursing facility, or treatment facility such as a physical or occupational therapy center, or a facility providing administrative services affiliated with the group practice; or

"(II) an office located in a rural area (as defined in section 1886(d)(2)(D)) if at least 85 percent of the physicians' services furnished at the location are furnished to individuals who reside in such a rural area; and

"(ii) any office location which is located immediately adjacent to another office location shall be treated as the same office location.".

(2) USE OF BILLING NUMBERS, ETC.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(B) in subsection (h)(4)(A)(ii), as added by subsection (d)(1), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(C) in subsection (h)(4)(A)(iii), as so added, by striking "by members of the group".

(3) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking "DEFINITIONS.—" and inserting "DEFINITIONS AND SPECIAL RULES.—".

(e) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (4), as redesignated by subsection (c)(7), as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) RURAL PROVIDERS.—In the case of designated health services if—

"(A) the services are furnished in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services furnished by the entity furnishing the services described in subparagraph (A) are furnished to individuals entitled to benefits under this title who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(f) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: "other than an arrangement involving only remuneration described in subparagraph (C)", and

(2) by adding at the end the following new subparagraph:

"(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies of minor value that are used to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests or procedures for such entity.".

(g) EXCEPTION FOR PUBLICLY-TRADED SECURITIES.—Section 1877(c) (42 U.S.C. 1395nn(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "on terms generally available to the public" and inserting "through public trading on a public exchange or which were inherited"; and

(2) in paragraph (2), by striking "total assets exceeding $100,000,000" and inserting "stockholder equity exceeding $75,000,000".

(h) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(A)(i), by striking "who are employed by such physician or group practice and who are personally" and inserting "who are directly";

(2) in the fourth sentence of subsection (f)—

(A) by striking "provided" and inserting "furnished", and

(B) by striking "provides" and inserting "furnish";

(3) in the last sentence of subsection (f)—

(A) by striking "providing" each place it appears and inserting "furnishing",

(B) by striking "with respect to the providers" and inserting "with respect to the entities", and

(C) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(4) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(i) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to referrals made on or after January 1, 1992.

(2) The amendments made by subsection (a) apply with respect to a referral by a physician for designated health services (as defined in section 1877(h)(6) of the Social Security Act) made after December 31, 1994.

SEC. 7305. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking "1991" and inserting "1994", and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to erythropoietin furnished after 1993.

Subtitle B—Medicaid Program

PART I—PROGRAM SAVINGS PROVISIONS

Subpart A—Repeal of Mandate

SEC. 7401. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by subsection (b), is amended—

(1) in paragraph (7), by striking "including personal care services" and all that follows through "nursing facility";

(2) in paragraph (23), by striking "and" at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

"(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility or other medical institution that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and".

(b) REDESIGNATIONS TO PARAGRAPHS ADDED BY OBRA-1990.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) in paragraph (24), by striking the comma at the end and inserting "; and"; and

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24), as so redesignated, after paragraph (23), as so redesignated.

(c) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (21)" and inserting "through (24)".

(2) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "through (22)" and inserting "through (25)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

Subpart B—Outpatient Prescription Drugs

SEC. 7411. PERMITTING PRESCRIPTION DRUG FORMULARIES UNDER STATE PLANS.

(a) ELIMINATION OF PROHIBITION AGAINST USE OF FORMULARIES.—Paragraph (54) of section 1902(a) (42 U.S.C. 1396a(a)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(b) STANDARDS FOR FORMULARIES.—Section 1927(d) (42 U.S.C. 1396r-8(d)), as amended by section 7412(a), is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

"(C) In the case of a State that establishes a formulary in accordance with paragraph (6), the State may exclude coverage of a covered outpatient drug that is not included in the formulary."; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary only if the following requirements are met:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State or, at the option of the State, the State's drug use review board established under subsection (g)(3).

"(B) The formulary includes each covered outpatient drug of a manufacturer which has entered into and complies with an agreement under subsection (a) unless the drug is contained in the list referred to in paragraph (2) or excluded in accordance with subparagraph (C).

"(C)(i) The committee may exclude a covered outpatient drug with respect to the treatment of a specific disease or condition for an identified population (if any) only if the committee finds that the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical

outcome of such treatment for such population over other drugs included in the formulary.

"(ii) The committee's finding under clause (i) shall be based on—

"(I) the drug's labeling, or

"(II) in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, on information from the appropriate compendia described in subsection (k)(6).

"(D) With respect to a recommendation to exclude a covered outpatient drug from the formulary or to exclude a prescribed use of such a drug, the committee issues a written explanation of its recommendation that is available to the public.

"(E) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (5) unless the drug is contained in the list referred to in paragraph (2).

"(F) The formulary meets such other requirements as the Secretary may impose.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 7412. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) IN GENERAL.—Section 1927(d) (42 U.S.C. 1396r-8(d)) is amended by striking paragraph (6).

(b) CONFORMING AMENDMENT.—(1) Section 1927(d)(1)(A) (42 U.S.C. 1396r-8(d)(1)(A)) is amended by striking "Except as provided in paragraph (6), a State" and inserting "A State".

(2) Section 1927(d)(3) (42 U.S.C. 1396r-8(d)(3)) is amended by striking "(except with respect" and all that follows through "of this paragraph)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 7413. MODIFICATIONS TO DRUG REBATE PROGRAM.

(a) ELIMINATION OF ADDITIONAL REBATE BASED ON WEIGHTED AVERAGE MANUFACTURER PRICE.—Paragraph (2) of section 1927(c) (42 U.S.C. 1396r-8(c)) is amended to read as follows:

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate for a calendar quarter with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, is increased by an amount equal to the product of—

"(i) the total number of dosage units dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the calendar quarter exceeds such index for September 1990.

"(B) SPECIAL RULE.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, subclause (II) of subparagraph (A)(ii) shall be applied by substituting 'the first full calendar quarter after the drug was marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the drug was marketed' for 'September 1990'.".

(b) BASE DATE FOR COVERED OUTPATIENT DRUG SOLD OR TRANSFERRED.—Paragraph (2) of section 1927(c) (42 U.S.C. 1396r-8(c)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(C) BASE DATE FOR COVERED OUTPATIENT DRUG SOLD OR TRANSFERRED.—For purposes of computing the additional rebate under this paragraph for any covered outpatient drug that is sold or transferred to any entity, including a division or subsidiary of a manufacturer, the base date for such drug after such sale or transfer shall be the original base date established for such drug.".

(c) MAXIMUM ALLOWABLE COST LIMITATIONS.—Section 1927 (42 U.S.C. 1396r-8) is amended by adding at the end the following new subsection:

"(l) MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions in effect prior to January 1, 1991, relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs is subject to such limitations or the amount of such cost limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c) shall be effective as if included in the enactment of section 4401 of OBRA-1990.

(2) The amendment made by subsection (b) shall be effective on the date of the enactment of this Act.

Subpart C—Restrictions on Divestiture of Assets and Estate Recovery

SEC. 7421. MEDICAID ESTATE RECOVERIES.

(a) MANDATE TO SEEK RECOVERY.—The matter preceding subparagraph (A) of section 1917(b)(1) (42 U.S.C. 1396p(b)(1)) is amended to read as follows: "The State agency shall seek adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan—".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended by adding at the end the following new paragraph:

"(3) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency shall waive the application of this subsection if such application would work an undue hardship as determined on the basis of criteria established by the Secretary.".

(c) DEFINITION OF ESTATE.—Section 1917(b) (42 U.S.C. 1396p(b)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(4) DEFINITION.—For purposes of this section, the term 'estate', with respect to a deceased individual—

"(A) shall include all real and personal property and other assets included within the individual's estate, as defined for purposes of State law with respect to inheritance, and

"(B) may include, at the option of the State, any or all other real or personal property or other assets in which the individual had any legal title or interest at the time of death, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.".

(d) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.

SEC. 7422. TRANSFERS OF ASSETS.

(a) MANDATORY AND OPTIONAL PERIODS OF INELIGIBILITY.—Section 1917(c) (42 U.S.C. 1396p(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) In order to meet the requirements of this subsection for purposes of section 1902(a)(18), the State plan shall provide that any institutionalized individual (or the spouse of such individual) who disposes of assets for less than fair market value on the date specified in subparagraph (B)(ii), or at any time thereafter during such individual's lifetime, is ineligible for medical assistance for—

"(i) nursing facility services,

"(ii) a level of care in any institution equivalent to that of nursing facility services, and

"(iii) home or community-based services under subsection (c) or (d) of section 1915,

during any and all applicable periods specified in paragraph (2).

"(B)(i) The date specified in this clause, with respect to an institutionalized individual, is the first date as of which the individual—

"(I) is an institutionalized individual, and

"(II) has applied for or is receiving medical assistance under the State plan.

"(ii) The date specified in this clause, with respect to an institutionalized individual, is the date 30 months before the date specified in clause (i) (or, at the option of the State, such earlier date as provided by the State in accordance with paragraph (3)(A)(iii)).";

(2) by redesignating paragraphs (2) through (5) as paragraphs (4) through (7) and by inserting after paragraph (1) the following new paragraphs:

"(2) The period of ineligibility required under paragraph (1) with respect to an institutionalized individual—

"(A) shall be a number of months equal to—

"(i) the total uncompensated value of all assets transferred by the individual or the individual's spouse on or after the date specified in paragraph (1)(B)(ii), divided by

"(ii) the average cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) on the date specified in paragraph (1)(B)(i) based on costs which include the cost of services included in the State's nursing facility reimbursement rate; and

"(B) shall begin with the first month in which—

"(i) the individual—

"(I) is an institutionalized individual,

"(II) is (or but for the provisions of this subsection would be) entitled to have medical assistance paid under the State plan for services specified under paragraph (1), and

"(III) is receiving or is an applicant for such medical assistance, and

"(ii) the State has become aware that assets have been transferred.

"(3)(A) The State plan may include, in accordance with this paragraph, any or all of the following provisions concerning eligibility for medical assistance of individuals who (or whose spouses) dispose of assets for less than fair market value:

"(i) The State plan may provide for periods of ineligibility for medical assistance for long-term care services specified by the State and approved by the Secretary for any or all individuals (or groups of individuals) otherwise eligible for such medical assistance, in addition to the individuals specified in paragraph (1).

"(ii) Subject to such restrictions as the Secretary may impose, the State plan may provide for periods of ineligibility for medical assistance for any long-term care services (in addition to the services specified in paragraph (1)(A)) for which medical assistance is otherwise available under the plan.

"(iii) The State plan may provide for a date on and after which transfers of assets are subject to review earlier than the date specified in paragraph (1)(B)(ii), but not earlier than 4 years before—

"(I) in the case of an institutionalized individual, the date specified in paragraph (1)(B)(i), or

"(II) in the case of any other individual, the date on which the individual applied for medical assistance under the State plan.

"(B)(i) The period of ineligibility imposed by the State pursuant to this paragraph for services other than those specified in paragraph (1)(A) shall not be longer than the period of ineligibility that would have resulted if the individual had expended the assets transferred for the costs of medical care furnished on and after the date the individual applied for medical assistance, as determined by the State in accordance with clause (ii).

"(ii) In determining the period of ineligibility of an individual pursuant to clause (i), the State—

"(I) may presume that the individual's cost of medical care furnished is equal to the average cost to a private patient for such care on a daily, monthly, or other basis, or

"(II) may use any other method approved by the Secretary.";

(3) in paragraph (4), as redesignated—

(A) by amending subparagraph (B) to read as follows:

"(B) the resources—

"(i) were transferred to the individual's spouse or to another for the sole benefit of the individual's spouse and did not exceed the amount permitted under section 1924(f)(1);

"(ii) were transferred from the individual's spouse to another for the sole benefit of the individual's spouse and did not exceed the amount permitted under section 1924(f)(1); or

"(iii) were transferred to the individual's child described in subparagraph (A)(ii)(II);";

(B) in subparagraph (C)—

(i) by striking "any";

(ii) by striking "or (ii)" and inserting "(ii)"; and

(iii) by striking "; or" and inserting ", or (iii) all assets transferred by an individual for less than fair market value have been returned to the individual;";

(C) by amending subparagraph (D) to read as follows:

"(D) the State determines (in accordance with regulations promulgated by the Secretary) that denial of eligibility would work an undue hardship; or";

(D) by adding at the end the following new subparagraph:

"(E) the State determines that the total fair market value of all of the assets transferred by the individual during the period between the date specified in paragraph (1)(B)(i) and the date specified by the State under paragraph (1)(B)(ii) are below an amount determined appropriate by the State and approved by the Secretary."; and

(E) by adding at the end the following flush sentence:

"In determining whether an individual has made a satisfactory showing to the State under subparagraph (C)(ii), the State shall consider the individual's health status at the time of the transfer of assets and whether, at the time of such transfer, the individual retained assets sufficient to meet the individual's foreseeable future health care needs based on such health status.";

(4) by striking paragraph (5), as redesignated, and inserting the following:

"(5) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset (or the affected portion of such asset) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset, except to the extent an action taken by a person other than the individual is an action consistent with partial ownership of the asset, as provided in regulations issued by the Secretary.";

(5) by adding the following at the end of paragraph (6), as redesignated: "In the case of a transfer by the spouse of an institutionalized individual which results in a period of ineligibility for medical assistance under a State plan for the institutionalized individual, a State shall apply a reasonable methodology to transfer all or a portion of any such period of ineligibility to such spouse if the spouse becomes an institutionalized individual."; and

(6) by amending paragraph (7), as redesignated, to read as follows:

"(7) For purposes of this subsection:

"(A) The term 'assets', with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action—

"(i) by the individual or such individual's spouse,

"(ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse, or

"(iii) by any person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse.

"(B) The term 'income' has the meaning given such term in section 1612.

"(C) The term 'resources' has the meaning given such term in section 1613, without regard (in the case of an institutionalized individual) to the exclusion described in subsection (a)(1) of such section.

"(D) The term 'institutionalized individual' means, and the term 'individual is institutionalized' refers to, an individual receiving any of the services specified in paragraph (1)(A).".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended—

(A) by striking "(A)"; and

(B) by striking ", and (B)" and all that follows and inserting a semicolon.

(2) Section 1924(f)(1) (42 U.S.C. 1396r-5(f)(1)) is amended by striking "transfer an amount" and inserting "transfer an amount sufficient to make the resources of the community spouse".

(c) REQUIREMENTS FOR NURSING FACILITIES.—

(1) MEDICAID PROGRAM.—Section 1919(c)(5)(A)(i) (42 U.S.C. 1396r(c)(5)(A)(i)) is amended by striking "and (III)" and inserting "(III) not require individuals applying to reside or residing in the facility, or family members of such individuals, to provide any financial information other than to identify the source of payment for such individual's stay in the facility, and (IV)".

(2) MEDICARE PROGRAM.—Section 1819(c)(5)(A)(i) (42 U.S.C. 1395i-3(c)(5)(A)(i)) is amended by striking "and (III)" and inserting "(III) not require individuals applying to reside or residing in the facility, or family members of such individuals, to provide any financial information other than to identify the source of payment for such individual's stay in the facility, and (IV)".

(d) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply with respect to assets disposed of before the date which is 60 days after the date of the enactment of this Act.

SEC. 7423. TREATMENT OF CERTAIN TRUSTS.

(a) IN GENERAL.—Section 1917 (42 U.S.C. 1396p) is amended by adding at the end the following:

"(d)(1) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the following rules shall apply to a trust established by such individual:

"(A) In the case of a revocable trust—

"(i) the corpus of the trust shall be considered resources available to the individual,

"(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

"(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to subsection (c).

"(B) In the case of an irrevocable trust—

"(i) the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual, and payments from that portion of the corpus or income—

"(I) to or for the benefit of the individual, shall be considered income of the individual, and

"(II) for any other purpose, shall be considered a transfer of assets by the individual subject to subsection (c); and

"(ii) any portion of the trust from which, or any income on the corpus from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) a transfer of assets by the individual

subject to subsection (c), and payments from such portion of the trust after such date shall be disregarded.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if—

"(i) any of the following individuals established such trust other than by will:

"(I) the individual,

"(II) the individual's spouse,

"(III) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse, or

"(IV) a person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse; and

"(ii) assets of the individual were used to form all or part of the corpus of the trust.

"(B) In the case of a trust the corpus of which includes assets of an individual (as determined under subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(3) This subsection shall apply without regard to—

"(A) the purposes for which a trust is established,

"(B) whether the trustees have or exercise any discretion under the trust,

"(C) any restrictions on when or whether distributions may be made from the trust, or

"(D) any restrictions on the use of distributions from the trust.

"(4)(A) This subsection shall not apply to any of the following trusts:

"(i) A trust containing the assets of a disabled individual (as determined under section 1614(a)(3)) established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court if the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance received by the individual under a State plan under this title.

"(ii) A trust established in a State for the benefit of an individual if—

"(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

"(II) the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance received by the individual under a State plan under this title, and

"(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to individuals for nursing facility services under section 1902(a)(10)(C).

"(B) For purposes of this subsection, the term 'trust' includes any legal instrument or device that is similar to a trust but includes an annuity only to such extent and in such manner as the Secretary specifies.

"(C) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes that such application would work an undue hardship on the individual as determined on the basis of criteria established by the Secretary.

"(5) For purposes of this subsection, the terms 'assets', 'income', and 'resources' shall have the meaning given to such terms under subsection (c)(7).".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(18) (42 U.S.C. 1396a(a)(18)) is amended by striking "and transfers of assets" and inserting ", transfers of assets, and treatment of certain trusts".

(2) Section 1902 (42 U.S.C. 1396a) is amended by repealing subsection (k).

(c) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply with respect to trusts established before the date which is 60 days after the date of the enactment of this Act.

Subpart D—Improvement in Identification and Collection of Third Party Payments

SEC. 7431. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers)" and inserting "insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations)".

(2) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by striking "regulation)" and inserting "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization".

(b) REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by adding "and" at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) assurances satisfactory to the Secretary that the State has in effect laws which prohibit any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a plan under this title for such State, or any other State;".

(c) STATE RIGHT TO THIRD PARTY PAYMENTS FOR RECIPIENT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) assurances satisfactory to the Secretary that the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services;".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 7432. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by subsection (c), is amended—

(1) by striking "and" at the end of paragraph (58);

(2) by striking the period at the end of paragraph (59) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(60) provide that the State agency shall provide assurances satisfactory to the Secretary that the State has in effect the laws relating to medical child support required under section 1908.".

(b) MEDICAL CHILD SUPPORT LAWS.—Title XIX (42 U.S.C 1936 et seq.) is amended by inserting after section 1907 the following new section:

"REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT

"SEC. 1908. (a) IN GENERAL.—The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(60), are as follows:

"(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(A) the child was born out of wedlock,

"(B) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(C) the child does not reside with the parent or in the insurer's service area.

"(2) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions and subject to the requirements under paragraph (1)); and

"(B) if such a parent fails to provide such health insurance coverage for any such child, to

enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV.

"(3) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions and subject to the requirements under paragraph (1));

"(B) if such a parent fails to provide such health insurance coverage for a child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV;

"(C) not to disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment; and

"(D) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage and to pay such share of premiums to the insurer.

"(4) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(C) to make payment on claims submitted in accordance with subparagraph (B) directly to such custodial parent, the provider, or the State agency.

"(6) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(B) has received payment from a third party for the costs of such services to such child, but

"(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(b) SPECIAL RULE.—The Secretary may provide by regulation for such exceptions to the requirement under subsection (a)(3) as the Secretary determines necessary to ensure compliance with the conditions of any order referred to in such subsection or with the maximum amounts permitted to be withheld under section 303(b) of the Consumer Credit Protection Act.

"(c) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.".

(c) REDESIGNATIONS TO PARAGRAPHS ADDED BY OBRA-1990.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA-1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA-1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA-1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA-1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA-1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994.

(2) In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 7433. OFFSET OF PAYMENT OBLIGATIONS RELATING TO MEDICAL ASSISTANCE AGAINST OVERPAYMENTS OF STATE AND FEDERAL INCOME TAXES.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 6402 of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(B) by adding after subsection (d) the following new subsection:

"(e) COLLECTION OF CERTAIN DEBTS OWED TO STATES.—

"(1) IN GENERAL.—Upon receiving notice from any State under section 1931(b)(1) of the Social Security Act that a named person owes a legally enforceable debt for any payment obligation relating to medical assistance, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State; and

"(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsections (c) and (d) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). Any overpayment by a person shall be applied against any debts described in paragraph (1) in the order in which such debts accrued.

"(3) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—For purposes of this subsection, rules similar to the rules described in clause (i) and the first sentence of clause (ii) of subsection (d)(3)(B) shall apply.

"(4) DEFINITION.—For purposes of this subsection, the term 'medical assistance' means medical assistance provided under title XIX of the Social Security Act.".

(2) CONFORMING AMENDMENT.—Section 6402(f) of the Internal Revenue Code of 1986, as redesignated, is amended by striking "(c) or (d)" and inserting "(c), (d), or (e)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for taxable years beginning after December 31, 1993.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) STATE PLAN AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 7432, is amended—

(A) by striking "and" at the end of paragraph (59);

(B) by striking the period at the end of paragraph (60) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(61) provide that recovery of any legally enforceable debt for any payment obligation relating to medical assistance provided under this title shall be made in accordance with a program for the collection of such debt from State and Federal tax refunds in accordance with section 1931.".

(2) PROGRAM FOR COLLECTIONS FROM STATE AND FEDERAL TAX REFUNDS.—Title XIX (42 U.S.C 1936 et seq.) is amended by adding at the end the following new section:

"COLLECTION OF PAYMENT OBLIGATIONS RELATING TO MEDICAL ASSISTANCE FROM STATE AND FEDERAL TAX REFUNDS

"SEC. 1931. (a) STATE TAX REFUNDS.—If a State with a State plan approved under this title has a State income tax system, such State shall require the State agency administering the State plan and the State agency responsible for administering the States income tax system to develop and implement a program under which any person determined appropriate by the State agency administering the State plan who owes a legally enforceable debt for any payment obligation relating to medical assistance provided under this title will have withheld an appropriate amount from any refund otherwise payable to such person under the State income tax system.

"(b) FEDERAL TAX REFUNDS.—

"(1) NOTICE TO THE SECRETARY OF THE TREASURY.—

"(A) IN GENERAL.—If a State with a State plan approved under this title—

"(i) implements a program described in subsection (a), or

"(ii) is a State that does not have a State income tax system,

the State agency administering such plan may provide a notice to the Secretary of the Treasury regarding any person determined appropriate by such State agency who owes a legally enforceable debt for any payment obligation relating to medical assistance provided under this title and the Secretary of the Treasury shall withhold an appropriate amount from any refund otherwise payable to such person in accordance with section 6402(e) of the Internal Revenue Code of 1986 (hereafter in this section referred to as the 'Code').

"(B) REGULATIONS RELATING TO NOTICES.—The Secretary of the Treasury shall issue regulations, after consultation with the Secretary, which—

"(i) prescribe the timing by which State agencies may submit notices of payment obligations relating to medical assistance,

"(ii) specify the manner in which such notices must be submitted,

"(iii) specify the necessary information that must be contained in or accompany such notices,

"(iv) specify the minimum payment obligation relating to medical assistance to which the offset procedures may be applied,

"(v) specify the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and

"(vi) provide that the Secretary of the Treasury will advise the Secretary, not less frequently than annually, of the States which have furnished notices under this subsection, the number of cases in each State with respect to which such notices have been furnished, the total amount of payment obligations sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(2) NOTICE.—Prior to notifying the Secretary of the Treasury under paragraph (1), the State agency shall send a notice to the person owing the legally enforceable debt for a payment obligation relating to medical assistance provided under this title which—

"(A) explains that a withholding may be made under 6402(e) of the Code from any refund otherwise payable to such person,

"(B) instructs the person having the payment obligation of the steps which may be taken to contest the State's determination that such payment obligation is owed or the amount of the payment obligation, and

"(C) provides information with respect to procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(3) EXCESS WITHHOLDING.—In any case in which an amount was withheld under section 6402(e) of the Code and the State subsequently determines that the amount certified as owing with respect to medical assistance was in excess of the amount actually owed at the time the amount withheld is distributed to the State, the State shall pay the excess amount withheld to the named person determined to have the payment obligation (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return).".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this paragraph shall apply to calendar quarters beginning on or after December 31, 1993.

(B) SPECIAL RULE.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or appropriating funds) in order to comply with the amendments made by subparagraph (A), the State shall not be regarded as failing to comply with such amendments solely on the basis of its failure to meet the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subpart E—Assuring Proper Payments to Disproportionate Share Hospitals

SEC. 7441. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r-4) is amended—

(1) in subsection (a)(1)(A), by striking "requirement" and inserting "requirements";

(2) in subsection (b)(1), by striking "requirement" and inserting "requirements";

(3) in the heading to subsection (d), by striking "REQUIREMENT" and inserting "REQUIREMENTS";

(4) by adding at the end of subsection (d) the following new paragraph:

"(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.";

(5) in subsection (e)(1)—

(A) by striking "and" before "(B)", and

(B) by inserting before the period at the end the following: ", and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)"; and

(6) in subsection (e)(2)—

(A) in subparagraph (A), by inserting "(other than the fourth sentence of subsection (c))" after "(c)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking the period at the end of subparagraph (B) and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(C) subsection (d)(3) shall apply.".

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.—Subsection (c) of section 1923 (42 U.S.C. 1396r-4) is amended by adding at the end the following: "A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality of, or a unit of government within, a State) if the payment adjustment exceeds the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party coverage) for services provided during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act which are for payments to hospitals made under State plans after the end of the State fiscal year that ends during 1995.

Subpart F—Anti-Fraud and Abuse Provisions

SEC. 7451. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by subsection (b), is amended—

(1) in paragraph (12), by striking "or" at the end,

(2) in paragraph (13), by striking the period at the end and inserting "; or", and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to any amount expended for an item or service for which payment would be denied under section 1877(g)(1) if the item or service were furnished to an individual entitled to benefits under title XVIII.".

(b) REDESIGNATIONS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA-1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, and by striking the period at the end and inserting a semicolon;

(2) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA-1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(3) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA-1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking "; or" and inserting a period.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1993.

PART II—OTHER MEDICAID PROVISIONS

SEC. 7501. EXTENSION OF DEMONSTRATION PROJECT ON THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES.

(a) IN GENERAL.—Section 4745 of OBRA-1990 is amended—

(1) in paragraph (1) of subsection (e), by striking "$12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994" and inserting "$40,000,000"; and

(2) in paragraph (2) of subsection (f) by striking "January 1, 1995" and inserting "one year after the termination of the projects".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

Subtitle C—Income Security Programs

SEC. 7601. MATCHING OF STATE ADMINISTRATIVE COSTS.

(a) AFDC MATCHING.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended to read as follows:

"(3) in the case of any State, 50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a) of this Act other than services furnished pursuant to section 402(g); and".

(b) TERRITORIAL PROGRAMS FOR AGED, BLIND, AND DISABLED.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) (42 U.S.C. 303(a)(3), 1203(a)(3), 1353(a)(3), and 1383 note) (as in effect as provided by section 303 of the Social Security Amendments of 1972) are each amended by striking "the sum of" and all that follows and inserting "50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.".

(c) REQUIREMENTS FOR ATTESTING TO CITIZENSHIP STATUS.—Paragraph (1)(A) of section 1137(d) (42 U.S.C. 1320b-7(d)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) by the individual,

"(ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual's family or household (as applicable), or

"(iii) in the case of an individual born into a family or household receiving benefits under

such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by—

(A) subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after April 1, 1994, and

(B) subsection (c) shall be effective on and after the date of the enactment of this Act.

(2) SPECIAL RULE.—In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, the amendments made by subsections (a) and (b) shall be effective no later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 7602. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking "1991" and inserting "1994";

(B) by inserting "is based on reliable data and" before "equals or exceeds"; and

(C) by striking subparagraphs (A), (B), and (C) and inserting the following new subparagraphs:

"(A) 75 percent;

"(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points; or

"(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 6 percentage points."; and

(2) in paragraph (2)—

(A) by striking "(or under all such plans)" each place it appears;

(B) by inserting "or part (E)" after "under part A" each place it appears;

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) the term 'reliable data' means the most recent data available which are found by the Secretary to be reliable for purposes of this section.";

(D) by inserting "unless paternity is established for such child" after "the death of a parent"; and

(E) by inserting "or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so" after "cooperate under section 402(a)(26)".

(b) STATE PLAN REQUIREMENTS FOR THE ESTABLISHMENT OF PATERNITY.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(1) in paragraph (2)—

(A) by striking "at the option of the State,"; and

(B) by inserting "or paternity establishment" after "support order issuance and enforcement";

(2) in paragraph (5) by adding at the end the following new subparagraphs:

"(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained and ensure that due process safeguards are afforded. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately preceding or following the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, constitute a voluntary acknowledgment of paternity.

"(D) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity.

"(E) Procedures under which the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity.

"(F) Procedures which provide that (i) any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendent and any additional showing required by State law."; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to a State on the later of—

(1) October 1, 1993 or,

(2) the date of enactment by the legislature of such State of all laws required by such amendments,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 7603. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by inserting ", plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)" before the period; and

(C) by adding after and below the end the following:

"(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

"(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

"(ii) the applicable rate for the fiscal year.

"(B) As used in subparagraph (A), the term 'applicable rate' means—

"(i) for fiscal year 1995, $1.67;

"(ii) for fiscal year 1996, $3.33;

"(iii) for fiscal year 1997, $5.00; and

"(iv) for fiscal year 1998 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to criteria established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(C) All fees collected pursuant to this paragraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(3)(A) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

"(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

"(C) The additional services fee shall be payable in advance or by way of reimbursement.

"(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting ", plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)" before the period; and

(C) by adding after and below the end the following:

"(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

"(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

"(II) the applicable rate for the fiscal year.

"(ii) As used in clause (i), the term 'applicable rate' means—

"(I) for fiscal year 1995, $1.67;

"(II) for fiscal year 1996, $3.33;

"(III) for fiscal year 1997, $5.00; and

"(IV) for fiscal year 1998 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to regulations established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(iii) All fees collected pursuant to this subparagraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(C)(i) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

"(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

"(iii) The additional services fee shall be payable in advance or by way of reimbursement.

"(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93-66 for any calendar month beginning after September 30, 1994, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

Subtitle D—Miscellaneous Provisions

PART I—TRADE PROVISIONS

SEC. 7701. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1998".

SEC. 7702. EXTENSION OF, AND AUTHORIZATION OF APPROPRIATIONS FOR, TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking "No" and all that follows through "and no duty" in subsection (b) and inserting "No duty"; and

(2) by adding at the end the following new subsection:

"(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1998.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) CHAPTER 2 ADJUSTMENT ASSISTANCE.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "1988, 1989, 1990, 1991, 1992, and 1993" and inserting "1993, 1994, 1995, 1996, 1997, and 1998".

(2) CHAPTER 3 ADJUSTMENT ASSISTANCE.—Section 256(b) of such Act (19 U.S.C. 2346(b)) is amended by striking "1988, 1989, 1990, 1991, 1992, and 1993" and inserting "1993, 1994, 1995, 1996, 1997, and 1998".

PART II—IMPROVED ACCESS TO CHILDHOOD IMMUNIZATIONS

SEC. 7801. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such payment to a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z).".

(b) STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396a) is amended by adding after paragraph (58) the following new paragraph:

"(59) provide for the establishment of a State vaccine bulk purchase program for the purchase of pediatric vaccines."

and by adding at the end the following new subsection:

"(z)(1) For purposes of section 1396a(a)(59), a vaccine replacement program described in this subsection is a vaccine bulk purchase program under which a State with a State plan approved under this title contracts with each manufacturer of childhood vaccines selling such vaccines in the State to—

"(A) supply doses of childhood vaccines to providers (or in the case of a State medicaid vaccine program, the State) administering such vaccines to individuals eligible to receive medical assistance under the State plan and replace such vaccines as needed; and

"(B) charge the State agency for such doses of childhood vaccine the price under the most recent bid (determined once such a bid price is made public) submitted by a manufacturer which receives the Centers for Disease Control and Prevention contract with respect to the childhood immunization program under the Public Health Services Act, plus a reasonable fee to cover shipping and handling of returns for such doses.

"(2) Any manufacturer of childhood vaccines selling such vaccines in a State which does not participate in a vaccine replacement program described in paragraph (1) which is operated in such State shall be ineligible to bid for Centers for Disease Control and Prevention Immunization contracts under section 317(j) of the Public Health Services Act.".

(c) DEFINITION OF STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) VACCINE BULK PURCHASE PROGRAM.—The term 'vaccine bulk purchase program' means a State program which purchases vaccines at prices negotiated by the Centers for Disease Control and Prevention's childhood immunization program and distributes such vaccines free of charge to entities providing medical assistance to individuals eligible for such medical assistance under this title.".

(d) AGREEMENT WITH THE STATE.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)) is amended—

(1) by striking "under the State plan", and inserting "under the State plan and with any entity that is a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(e) CDC PRICE PLUS CPI.—To the extent that, at the date of enactment, a specific vaccine is purchased under contract with the Centers for Disease Control and Prevention as provided in the Public Health Service Act, no bid for the purchase of such vaccine shall be accepted by the Centers for Disease Control and Prevention if the price per dose of such vaccine exceeds the price in effect on the date of enactment increased by the percentage increase in CPI from date of the contract in effect on the date of the enactment to the date of the contract. This provision shall be in effect for contracts made in fiscal year 1994 through fiscal year 1998.

(f) MULTIPLE SUPPLIERS.—The Public Health Service provisions relating to the Centers for Disease Control and Prevention purchase of vaccine may not be construed as prohibiting the Secretary from entering into a contract with each manufacturer of a vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

SEC. 7802. STATE OPTION TO PROVIDE THAT CERTAIN PAYMENTS UNDER AFDC ARE CONDITIONED ON RECEIPT OF IMMUNIZATIONS.

(a) IN GENERAL.—Section 402 (42 U.S.C. 602) is amended—

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) at the option of the State, provide that if a family receiving aid to families with dependent children for any month includes a child under the age of 6 who has not received appropriate immunizations (as determined by the State), the State will take actions to encourage the timely immunization of such child including, but not limited to, reducing the total benefits received by such family for such month by all or a portion of the benefits allocable to the parent or guardian of such child and either—

"(A) placing all or a portion of such amount in an account until the family demonstrates to the State that such child has been appropriately immunized; or

"(B) using all or a portion of such amount to provide services to such family intended to ensure that such child receives appropriate immunizations.".

(b) STATE PROGRAMS TO ENCOURAGE APPROPRIATE IMMUNIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this subsection as the "Secretary") shall provide for the establishment or programs intended to ensure the appropriate immunization of children to be operated in the States electing to take actions to encourage the timely immunization of children described in section 402(a)(46) of the Social Security Act.

(2) PAYMENTS TO STATES AND LIMITS ON FUNDING.—

(A) PAYMENTS TO STATES.—Except as provided in subparagraph (B), the Secretary shall pay to each State conducting a program under this subsection for each quarter in which such program is conducted an amount equal such State's Federal percentage (as determined under section 403(a) of the Social Security Act) of the expenditures incurred by such State during such quarter in conducting such program.

(B) LIMITS ON FUNDING.—In conducting programs under this subsection, the Secretary shall limit the total amount of the Federal share of expenses incurred under title IV and section 1903 of the Social Security Act to no more than $250,000 for each State in any year.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall become effective on the date of the enactment of this Act.

PART III—DISCLOSURE PROVISIONS

SEC. 7901. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 1997" in the second sentence following clause (viii) and inserting "September 30, 1998".

(b) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7902. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) GENERAL RULE.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education,

disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer, and

"(iii) the adjusted gross income of such taxpayer.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

"(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term 'applicable student loan' means—

"(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

"(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

"(D) TERMINATION.—This paragraph shall not apply to any request made after September 30, 1998."

(b) CONFORMING AMENDMENTS.—

(1) So much of paragraph (4) of section 6103(m) of such Code as precedes subparagraph (B) thereof is amended to read as follows:

"(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

"(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

"(ii) who has defaulted on a loan—

"(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

"(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan."

(2) Subparagraph (B) of section 6103(m)(4) of such Code is amended—

(A) in clause (i), by striking "under part B" and inserting "under part B or D"; and

(B) in clause (ii), by striking "under part E" and inserting "under subpart 1 of part A, or part D or E,";

(3) Section 6103(p) of such Code is amended—

(A) in paragraph (3)(A), by striking "(11), or (12), (m)" and inserting "(11), (12), or (13), (m)";

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking out "(10), or (11)," and inserting "(10), (11), or (13),", and

(ii) in subparagraph (F)(ii), by striking "(11), or (12)," and inserting "(11), (12), or (13),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7903. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking "and" at the end;

(2) in clause (viii), by striking the period at the end and inserting "; and";

(3) by inserting after clause (viii) the following new clause:

"(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs."; and

(4) by adding at the end thereof the following: "Clause (ix) shall not apply after September 30, 1998."

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) of such Code is amended by inserting after "CODE" the following: ", OR CERTAIN HOUSING ASSISTANCE PROGRAMS".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7904. USE OF RETURN INFORMATION FOR HEALTH COVERAGE CLEARINGHOUSE.

(a) ESTABLISHMENT OF HEALTH COVERAGE CLEARINGHOUSE.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"THIRD PARTY LIABILITY CLEARINGHOUSE

"SEC. 1144. (a) ESTABLISHMENT OF CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall establish and operate a Third Party Liability Clearinghouse (hereafter in this section referred to as the 'Clearinghouse') for the purpose of identifying third parties responsible for payment for health care items and services furnished to beneficiaries of the medicare program under title XVIII and the medicaid program under title XIX.

"(2) DIRECTOR.—The Clearinghouse established pursuant to paragraph (1) shall be headed by a Director.

"(b) DATA BANK.—

"(1) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank containing information obtained pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986. Information in the data bank shall be retained for not less than 1 year after the date the information was obtained.

"(2) DISCLOSURE OF INFORMATION IN DATA BANK.—The Director is authorized (subject to the restriction in section 6103(l)(12)(E)(i) of the Internal Revenue Code of 1986) to disclose any information in the data bank established pursuant to paragraph (1) to the Commissioner of Social Security, the Secretary of the Treasury, employers, group health plans, the administrator of the medicare program under title XVIII, and the administrators of the medicaid program under title XIX, to the extent necessary to assist the administration of such programs.

"(c) REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION.—

"(1) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 6103(l)(12)(C)(i) of the Internal Revenue Code of 1986 within 60 days after receipt of such a request.

"(2) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide a timely and accurate response to a request for information pursuant to paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual or individual's spouse with respect to which such a request is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to such civil money penalty in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

"(d) COLLECTIONS FROM THIRD PARTIES.—The Director is authorized, upon request by the administrator of the medicare program under title XVIII or any administrator of the medicaid program under title XIX, to assist in the collection of amounts due from liable third parties to reimburse costs incurred by such program for health care items and services.

"(e) FEES FOR CLEARINGHOUSE SERVICES.—The Director shall establish fees for services provided under section 6103(l)(12)(C)(ii) of the Internal Revenue Code of 1986 and subsection (d) which are designed to cover the full costs to the Clearinghouse of providing such services. Clearinghouse services under such section and subsection shall be available subject to payment of such fees.

"(f) EVALUATION RESPONSIBILITIES.—The Director shall evaluate methods for improving—

"(1) procedures for the collection, management, and appropriate disclosure of health care coverage information, and

"(2) Federal laws and policies concerning third party liability for medical care.

"(g) DEFINITIONS.—For purposes of this section, the term 'group health plan' has the meaning given to such term in section 6103(l)(12)(G) of the Internal Revenue Code of 1986.".

(b) DISCLOSURE OF TAX RETURN INFORMATION.—

(1) IN GENERAL.—Paragraph (12) of section 6103(l) of the Internal Revenue Code of 1986, as amended by section 7303, is amended to read as follows:

"(12) DISCLOSURE OF CERTAIN TAXPAYER RETURN INFORMATION FOR PURPOSES OF IDENTIFYING HEALTH INSURANCE COVERAGE OF CERTAIN INDIVIDUALS AND SPOUSES.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security (referred to in this subparagraph as the 'Commissioner'), disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any individual identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner shall, upon written request from the Director of the Third Party Liability Clearinghouse (referred to in this subparagraph as the 'Director'), disclose to the Director the following information with respect to the individuals, and the spouses of such individuals, specified in subparagraph (A):

"(i) For each such individual who is identified as having received wages (as defined in section 3401(a)) above an amount (if any) specified by the Secretary of Health and Human Services from an employer in a previous year—

"(I) the name and TIN of the individual,

"(II) the name, address, and TIN of the employer, and

"(III) the information reported under section 6051(a)(10).

"(ii) For each individual who was identified as married under subparagraph (A) and whose spouse is identified as having received wages above an amount (if any) specified by the Secretary of Health and Human Services from an employer in a previous year—

"(I) the name and TIN of the individual,

"(II) the name and TIN of the spouse,

"(III) the name, address, and TIN of the spouse's employer, and

"(IV) the information reported under section 6051(a)(10) with respect to the spouse.

"(C) DISCLOSURE BY THIRD PARTY LIABILITY CLEARINGHOUSE.—The Director may (subject to the provisions of subparagraph (E)) disclose—

"(i) with respect to the information disclosed under subparagraph (B), to the employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereafter referred to in this subparagraph as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to the administrator of the medicare program under title XVIII of the Social Security Act or to any administrator of the medicaid program under title XIX of such Act the information disclosed under subparagraph (B) and clause (i) for purposes of providing information concerning employment and group health coverage of individuals and individual's spouses who are program beneficiaries,

"(iii) to any agent of such Director the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Director, and

"(iv) to any person specified in subsection (b)(2) of section 1144 of the Social Security Act, information in the data bank established pursuant to subsection (b)(1) of such section, for the purposes specified in such subsection.

"(D) DISCLOSURE BY CERTAIN PROGRAMS TO GROUP HEALTH PLANS.—The administrator of the medicare program under title XVIII of the Social Security Act or any administrator of the medicaid program under title XIX of such Act may (subject to the provisions of subparagraph (E)) disclose information concerning an employee or spouse disclosed to the Director pursuant to subparagraph (B) and redisclosed to such administrator pursuant to subparagraph (C)—

"(i) to any group health plan which provides or provided coverage to such employee or spouse, and

"(ii) to any agent of such administrator,

for purposes of identifying, or collecting on claims under coverage of such employee or spouse under such group health plan.

"(E) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under subparagraphs (A) through (D) only for purposes of, and to the extent necessary in, determining the extent to which any individual is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(F) DISCLOSURE CONCERNING ENFORCEMENT ACTIVITIES.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary of Health and Human Services the status of any activities undertaken (with respect to persons specified by the Secretary of Health and Human Services) to enforce the requirements of section 5000.

"(G) DEFINITIONS.—For purposes of this paragraph, the term 'group health plan' means any group health plan (as defined in section 5000(b)).".

(2) REPORTING OF GROUP HEALTH PLAN INFORMATION.—Section 6051(a) of the Internal Revenue Code of 1986 is amended—

(A) by striking "and" at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9) and inserting ", and", and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) whether a group health plan (as defined in section 6103(l)(12)(G)) is available to the employee and the plan coverage (single or family) elected by such employee (if any).".

(c) CONFORMING AMENDMENT.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)), as amended by section 7303, is amended to read as follows:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers (or to such a single intermediary or carrier as the Secretary may designate) the information received under section 6103(l)(12)(C)(ii) of the Internal Revenue Code of 1986.".

(d) EXCEPTION FROM PRIVACY ACT REQUIREMENTS.—Subsection (a)(8)(B) of section 552a of title 5, United States Code, is amended—

(1) in clause (v), by striking "; or" at the end;

(2) in clause (vi), by striking the semicolon at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(vii) matches performed pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and section 1144 of the Social Security Act for the purpose of identifying third parties responsible for payment for health care items and services furnished to beneficiaries of certain Federal and federally assisted programs;".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1995.

PART IV—OTHER PROVISIONS

SEC. 7950. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 of the Internal Revenue Code of 1986 (relating to income tax refund within 45 days after return is filed) is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 7951. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 7952. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

"(3) for the payment of all expenses of administration incurred by the Department of the Treasury, the Army Corps of Engineers, and the Department of Commerce related to the administration of subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 7953. INCREASE IN PRESIDENTIAL ELECTION CAMPAIGN FUND CHECK-OFF.

(a) IN GENERAL.—Section 6096(a) of the Internal Revenue Code of 1986 (relating to designation by individuals) is amended—

(1) by striking "$1" each place it appears and inserting "$3", and

(2) by striking "$2" and inserting "$6".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to tax returns required to be filed after December 31, 1993.

SEC. 7954. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$4,900,000,000,000".

(b) REPEAL OF TEMPORARY INCREASE.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 103-12 is hereby repealed.

TITLE VIII—FINANCE COMMITTEE REVENUE PROVISIONS

SEC. 8000. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1993".

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except in the case of the amendments made by section 8221 (relating to corporate rate increase), no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title.

(e) TABLE OF CONTENTS.—

Sec. 8000. Short title; etc.

Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

Sec. 8101. Employer-provided educational assistance.

Sec. 8102. Targeted jobs credit.

PART II—INVESTMENT INCENTIVES

SUBPART A—RESEARCH CREDIT

Sec. 8111. Extension of research credit.

Sec. 8112. Modification of fixed base percentage for startup companies.

Sec. 8113. Sense of Senate regarding permanent extension of research credit.

SUBPART B—MODIFICATION TO MINIMUM TAX DEPRECIATION RULES

Sec. 8115. Modification to minimum tax depreciation rules.

SUBPART C—INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES

Sec. 8119. Increase in expense treatment for small businesses.

SUBPART D—TAX EXEMPT BONDS

Sec. 8121. Extension of qualified small issue bonds.

PART III—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

Sec. 8131. Expansion and simplification of earned income tax credit.

PART IV—INCENTIVES FOR INVESTMENT IN REAL ESTATE

SUBPART A—EXTENSION OF QUALIFIED MORTGAGE BONDS AND LOW-INCOME HOUSING CREDIT

Sec. 8141. Extension of qualified mortgage bonds.

Sec. 8141A. Sense of the Senate regarding permanent extension of qualified mortgage bonds.

Sec. 8142. Low-income housing credit.

SUBPART B—PASSIVE LOSS RULES

Sec. 8143. Modification of passive loss rules.

SUBPART C—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

Sec. 8144. Real estate property acquired by a qualified organization.

Sec. 8145. Repeal of special treatment of publicly treated partnerships.

Sec. 8146. Title-holding companies permitted to receive small amounts of unrelated business taxable income.

Sec. 8147. Exclusion from unrelated business tax of gains from certain property.

Sec. 8148. Exclusion from unrelated business tax of certain fees and option premiums.

Sec. 8149. Treatment of pension fund investments in real estate investment trusts.

SUBPART D—INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY

Sec. 8151. Increase in recovery period for nonresidential real property.

PART V—LUXURY TAX

Sec. 8161. Repeal of luxury excise taxes other than on passenger vehicles.

Sec. 8162. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals.

Sec. 8163. Tax on diesel fuel used in noncommercial boats.

PART VI—OTHER CHANGES

Sec. 8171. Alternative minimum tax treatment of contributions of appreciated property.

Sec. 8172. Substantiation requirement for deduction of certain charitable contributions.

Sec. 8173. Disclosure related to quid pro quo contributions.

Sec. 8174. Certain transfers to railroad retirement account made permanent.

Sec. 8175. Temporary extension of deduction for health insurance costs of self-employed individuals.

PART VII—INVESTMENT IN INDIAN RESERVATIONS

Sec. 8181. Investment tax credit for property on Indian Reservations.

Sec. 8182. Indian employment credit.

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

SUBPART A—RATE INCREASES

Sec. 8201. Increase in top marginal rate under section 1.

Sec. 8202. Surtax on high-income taxpayers.

Sec. 8203. Modifications to alternative minimum tax rates and exemption amounts.

Sec. 8203A. Rate increases not to take effect until July 1, 1993.

Sec. 8204. Overall limitation on itemized deductions for high-income taxpayers made permanent.

Sec. 8205. Phaseout of personal exemption of high-income taxpayers made permanent.

Sec. 8206. Provisions to prevent conversion of ordinary income to capital gain.

SUBPART B—OTHER PROVISIONS

Sec. 8207. Repeal of limitation on amount of wages subject to health insurance employment tax.

Sec. 8208. Top estate and gift tax rates made permanent.

Sec. 8209. Reduction in deductible portion of business meals and entertainment.

Sec. 8209A. Sense of the Senate relating to the deductibility of business meals and entertainment expenses.

Sec. 8210. Elimination of deduction for club membership fees.

Sec. 8211. Disallowance of deduction for certain employee remuneration in excess of $1,000,000.

Sec. 8212. Reduction in compensation taken into account in determining contributions and benefits under qualified retirement plans.

Sec. 8213. Modification to deduction for certain moving expenses.

Sec. 8214. Simplification of individual estimated tax safe harbor based on last year's tax.

Sec. 8215. Social security and tier 1 railroad retirement benefits.

PART II—PROVISIONS AFFECTING BUSINESSES

Sec. 8221. Increase in top marginal rate under section 11.

Sec. 8222. Disallowance of deduction for lobbying expenditures.

Sec. 8223. Mark to market accounting method for securities dealers.

Sec. 8224. Clarification of treatment of certain FSLIC financial assistance.

Sec. 8225. Modification of corporate estimated tax rules.

Sec. 8226. Modifications of discharge of indebtedness provisions.

Sec. 8227. Limitation on section 936 credit.

Sec. 8228. Modification to limitation on deduction for certain interest.

PART III—FOREIGN TAX PROVISIONS

SUBPART A—CURRENT TAXATION OF CERTAIN EARNINGS OF CONTROLLED FOREIGN CORPORATIONS

Sec. 8231. Earnings invested in excess passive assets.

Sec. 8232. Modification to taxation of investment in United States property.

Sec. 8233. Other modifications to Subpart F.

SUBPART B—ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES

Sec. 8234. Allocation of research and experimental expenditures.

SUBPART C—OTHER PROVISIONS

Sec. 8235. Repeal of certain exceptions for working capital.

Sec. 8236. Modifications of accuracy-related penalty.

Sec. 8237. Denial of portfolio interest exemption for contingent interest.

Sec. 8238. Regulations dealing with conduit arrangements.

Sec. 8239. Treatment of export of certain softwood logs.

PART IV—TRANSPORTATION FUELS PROVISIONS

SUBPART A—TRANSPORTATION FUELS TAX

Sec. 8241. Transportation fuels tax.

SUBPART B—MODIFICATIONS TO TAX ON DIESEL FUEL

Sec. 8242. Modifications to tax on diesel fuel.

Sec. 8243. Floor stocks tax.

SUBPART C—EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND

Sec. 8244. Extension of motor fuel tax rates; increased deposits into Highway Trust Fund.

PART V—COMPLIANCE PROVISIONS

Sec. 8251. Modifications to substantial understatement and return-preparer penalties.

Sec. 8252. Returns relating to the cancellation of indebtedness by certain financial entities.

PART VI—TREATMENT OF INTANGIBLES

Sec. 8261. Amortization of goodwill and certain other intangibles.

Sec. 8262. Treatment of certain payments to retired or deceased partner.

PART VII—MISCELLANEOUS PROVISIONS

Sec. 8271. Denial of deduction relating to travel expenses.

Sec. 8272. Increase in withholding from supplemental wage payments.

Sec. 8273. Excise tax on certain vaccines made permanent.

Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 8101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to taxable years beginning after June 30, 1994.

"(2) SPECIAL RULE.—In the case of any taxable year beginning in 1994, only amounts paid before July 1, 1994, by the employer for educational assistance for any employee shall be taken into account for purposes of this section."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

SEC. 8102. TARGETED JOBS CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (4) of section 51(c) (relating to amount of targeted jobs credit) is amended by striking "1992" and inserting "1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

PART II—INVESTMENT INCENTIVES

Subpart A—Research Credit

SEC. 8111. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

"(h) NONAPPLICABILITY.—

"(1) IN GENERAL.—This section shall not apply to amounts paid or incurred during any suspension period.

"(2) BASE AMOUNT.—In the case of any taxable year which includes a portion of any suspension period, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year which are not in any suspension period bears to the total number of days in such taxable year.

"(3) FIXED-BASE PERCENTAGE.—The fixed-base percentage under subsection (c)(3)(B)(ii) shall be computed as if this section were in effect during any suspension period.

"(4) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' includes—

"(A) the period beginning July 1, 1992, and ending June 30, 1993, and

"(B) any period after June 30, 1994."

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "for periods after June 30, 1992" and inserting "during any suspension period (as defined in section 41(h)(4))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 8112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, 1/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(2) Subparagraph (D) of section 41(c)(3) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8113. SENSE OF SENATE REGARDING PERMANENT EXTENSION OF RESEARCH CREDIT.

It is the sense of the Senate that the research credit under section 41 of the Internal Revenue Code of 1986 be extended permanently.

Subpart B—Modification To Minimum Tax Depreciation Rules

SEC. 8115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) thereof.

Subpart C—Increase in Expense Treatment for Small Businesses

SEC. 8119. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$20,500".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

Subpart D—Tax Exempt Bonds

SEC. 8121. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended by striking "1992" and inserting "1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

PART III—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 8131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	16.16
2 or more qualifying children	39	20.72

"(B) TRANSITIONAL PERCENTAGES FOR 1995.—In the case of a taxable year beginning in 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	16.16
2 or more qualifying children	34	15.94

"(C) TRANSITIONAL PERCENTAGES FOR 1994.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26	16.16
2 or more qualifying children	30	15.94

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,500	$11,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,500	$11,000."

(b) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.", and

(2) by redesignating paragraph (3) as paragraph (2).

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking "clause (i) or (ii)" in clause (iii) and inserting "clause (i)",

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,".

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

"(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART IV—INCENTIVES FOR INVESTMENT IN REAL ESTATE

Subpart A—Extension of Qualified Mortgage Bonds and Low-Income Housing Credit

SEC. 8141. EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "1992" each place it appears and inserting "1994".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking "1992" and inserting "1994".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 8141A. SENSE OF THE SENATE REGARDING PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) FINDINGS.—The Senate finds that:

(1) Low and moderate income families often have difficulty in obtaining affordable mortgage financing.

(2) The mortgage revenue bond provisions of the Internal Revenue Code are an important tool in providing affordable financing for first-time home buyers.

(3) The tax-exempt status of mortgage revenue bonds have enabled State and local housing agencies to finance home mortgages for first-time buyers at rates below conventional market rates. This cost differential enables buyers, who otherwise might not be able to get mortgage financing, to obtain a loan at an affordable rate.

(4) Mortgage revenue bonds are targeted to families with the greatest need. In 1992, the average income of a mortgage revenue bond borrower was 74 percent of median income. Mortgage revenue bonds are only available to buyers who have not owned a home within the past 3 years, earn 115 percent or less of the applicable median income, and buy a principal residence that does not exceed 90 percent of the average home purchase price.

(5) Prior to its expiration in June, mortgage revenue bonds were the only Federal assistance targeted to first-time home buyers. During the past 15 years, mortgage revenue bonds have financed more than 2 million home purchases and accounted for 1 out of every 12 mortgages made to first-time buyers.

(6) In the last decade, mortgage revenue bonds have been scheduled to sunset 7 times, making administration and timing of bond issues extremely difficult and costly. The mortgage revenue bond program lapsed on June 30, underscoring the need for permanent extension.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that mortgage revenue bonds are a vital, proven tool for providing affordable home ownership opportunities for low- and moderate-income families and that Congress should adopt a permanent extension of the mortgage revenue bond program as part of the Internal Revenue Code.

SEC. 8142. LOW-INCOME HOUSING CREDIT.

(a) PERMANENT EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(2) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(3) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(4) DISCRIMINATION AGAINST TENANTS PROHIBITED.—Section 42(h)(6)(B) (defining extended low-income housing commitment) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi) and by inserting after clause (iii) the following new clause:

"(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (3) and (4) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS AND DEEP RENT SKEWING.—In the case of a building to which the amendments made by subsection (e)(1) or (n)(2) of section 7108 of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election, and only if the taxpayer has met the requirements of the procedures described in section 42(m)(1)(B)(iii) of the

Internal Revenue Code of 1986. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act and, once made, shall be irrevocable.

Subpart B—Passive Loss Rules

SEC. 8143. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) LOSS FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the least of—

"(A) the lesser of—

"(i) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates, or

"(ii) the net loss for such taxable year from all rental real estate activities of the taxpayer,

"(B) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

"(C) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

"(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(4) SPECIAL RULES.—

"(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

"(5) COORDINATION WITH SUBSECTION (i).—

"(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

"(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

"(i) the passive activity loss and passive activity credit, and

"(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 8144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.".

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 8145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 8146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 8147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 8148. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking "all gains on" and inserting "all gains or losses recognized, in connection with the organization's investment activities, from",

(2) by striking ", written by the organization in connection with its investment activities," and

(3) by inserting "or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 8149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart D—Increase in Recovery Period for Nonresidential Real Property

SEC. 8151. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property ..... 38 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after February 25, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 25, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 25, 1993.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

PART V—LUXURY TAX

SEC. 8161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1992, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the

1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the passenger vehicle in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such passenger vehicle if—

"(I) such component is furnished by the 1st user of such passenger vehicle, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE PASSENGER VEHICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 8162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or", and

(4) by inserting after subparagraph (C) the following flush sentence:

"The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A)."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) PERIOD FOR FILING CLAIMS.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 8163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'off-highway business use' does not include any use in a motorboat.

"(ii) FISHERIES AND WHALING.—The term 'off-highway business use' shall include any use in a vessel employed in the fisheries or in the whaling business.

"(iii) EXCEPTION FOR DIESEL FUEL.—The term 'off-highway business use' shall include the use of diesel fuel in a boat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business, except that this subclause shall not apply to noncommercial uses described in clause (iv) during a taxable period.

"(iv) TAXABLE PERIODS FOR NONCOMMERCIAL BOATS.—In the case of any use of diesel fuel in a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, the taxable period for purposes of clause (iii)(II) shall be—

"(I) in the case so much of the tax under section 4091 as is attributable to 4.3 cents of the diesel fuel deficit reduction rate imposed under such section, any period beginning after September 30, 1993, and

"(II) in the case so much of the tax under section 4091 as is not described in subclause (I) the period beginning after January 1, 1994, and ending on December 31, 1999.

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1993.

(2) SPECIAL RULE.—No tax shall be imposed before January 1, 1994, under section 4091 of the Internal Revenue Code of 1986 by reason of the amendments made by this section, other than the portion of such tax as is attributable to 4.3 cents of the diesel fuel deficit reduction rate imposed by such section.

PART VI—OTHER CHANGES

SEC. 8171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraph (7) as paragraph (6).

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "(5) and (6)" and inserting "(5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

SEC. 8172. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—

"(i) IN GENERAL.—An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. Nothing in this clause shall be construed as requiring the donee organization to estimate the value of a noncash contribution.

"(ii) QUID PRO QUO CONTRIBUTIONS.—If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services. The preceding sentence shall not apply to any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 8173. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of $75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which—

"(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provides the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization. A quid pro quo contribution does not include any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new items:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 8174. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 8175. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Part VII—Investment in Indian Reservations

SEC. 8181. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT.—The term 'qualified investment' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on a regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

For purposes of this subparagraph, the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property for which depreciation is allowable under section 168 and which is described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(H) COORDINATION WITH OTHER CREDITS.—The term 'qualified Indian reservation property' shall not include any property with respect to which the energy credit or the rehabilitation credit is allowed.

"(3) REAL ESTATE RENTALS.—For purposes of this section, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

"(6) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and" and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the qualified investment taken into account with respect to the property been limited to an amount which bears the same ratio to the qualified investment with respect to such property as the period such property was held by the taxpayer bears to the applicable recovery period under section 168(g).

"(C) COORDINATION WITH OTHER RECAPTURE PROVISIONS.—In the case of property to which this paragraph applies, paragraph (1) shall not apply and the rules of paragraphs (3), (4), and (5) shall apply."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy

credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) APPLICATION OF AT-RISK RULES.—Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the qualified investment in qualified Indian reservation property."

(g) CLERICAL AMENDMENTS.—

(1) Section 48 is amended by striking the heading and inserting the following:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; INDIAN RESERVATION CREDIT."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy credit; reforestation credit; Indian reservation credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 8182. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees throughout the taxable year) of the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year.

In no event shall the amount of the Indian employment credit for any taxable year exceed the credit limitation amount determined under subsection (e) for such taxable year.

"(2) INDIAN EMPLOYEE.—For purposes of paragraph (1), the term 'Indian employee' means an employee who is an enrolled member of an Indian tribe or the spouse of such a member.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after January 1, 1994.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1993 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT.—The credit limitation amount for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer (or any predecessor) during calendar year 1993 with respect to employees whose wages (paid or incurred by the employer or any predecessor) during 1993 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45(a), 51(a), and".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45(a)."

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

69-059 O—97 Vol. 139 (Pt. 10) 25

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 8201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500.	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500.	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking "28 percent" and inserting "36 percent".

(2) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting"1993", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1992".

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

"(A) CALENDAR YEAR 1994.—In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

"(B) LATER CALENDAR YEARS.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting '1993' for '1992'."

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1992".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1992".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1992".

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1992".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 8201) is amended by striking the last item in the table contained therein and inserting the following:

"Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000."

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000."

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000."

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.

Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000."

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $5,500 but not over $7,500.	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500."

(b) SURTAX ON NET CAPITAL GAINS.—Section 1(h) (relating to maximum capital gains rate) is amended by striking the period at the end of paragraph (2) and inserting ", plus", and by adding at the end the following new paragraph:

"(3) a tax of 2.8 percent of the lesser of—

"(A) the net capital gain, or

"(B) the amount of taxable income in excess of the dollar amount at which the last rate bracket begins for such taxable year in the table contained in subsection (a), (b), (c), (d), or (e), whichever is applicable."

(c) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 8201) are each amended by striking "36 percent" and inserting "39.6 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

"(1) AMOUNT OF TENTATIVE TAX.—

"(A) NONCORPORATE TAXPAYERS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203A. RATE INCREASES NOT TO TAKE EFFECT UNTIL JULY 1, 1993.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—

"(1) IN GENERAL.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(A) by substituting '33.5 percent' for '36 percent',

"(B) by substituting '35.3 percent' for '39.6 percent', and

"(C) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under the table contained in paragraph (2).

"(2) DOLLAR AMOUNT OF TAX.—The dollar amount substituted under paragraph (1) shall be determined as follows:

"In the case of:	The dollar amount is:
Subsection (a)	$72,778.50 for $75,528.50.
Subsection (b)	$74,422.50 for $77,485.00.
Subsection (c)	$76,397.00 for $79,772.00.
Subsection (d)	$36,389.25 for $37,764.25.
Subsection (e)	$2,075.00 for $2,125.00."

(b) CONFORMING AMENDMENTS.—

(1) Sections 531 and 541 (as amended by section 8202) are each amended by inserting "(35.3 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(2) Section 1(h)(3), as added by section 8202(b), is amended by inserting "(1.4 percent in the case of taxable years beginning in calendar year 1993)" after "2.8 percent".

(3) Paragraph (1) of section 55(b), as amended by section 8203, is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '25 percent' for '26 percent' in subclause (I), and

"(ii) '26 percent' for '28 percent' in subclause (II)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 8205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 8206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition or other termination of any position which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition or other termination referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition or other termination (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition or other termination of a position which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any transaction—

"(1) substantially all of the taxpayer's expected return from which is attributable to the time value of the taxpayer's net investment in such transaction, and

"(2) which is—

"(A) the holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis,

"(B) an applicable straddle,

"(C) any other transaction which is marketed or sold as producing capital gains and as a transaction described in paragraph (1), or

"(D) any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that the term 'personal property' shall include stock.

"(2) APPLICABLE RATE.—The term 'applicable rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If any position with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such position for periods after such position becomes part of such transaction, such position shall be taken into account at its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition or other termination of such position in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the loss (if any) which would have been realized if

the position had been disposed of or otherwise terminated at its fair market value as of the time such position became part of such transaction.

"(4) POSITION TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any position which becomes part of such transaction (determined as of the time such position became part of such transaction).

"(5) SPECIAL RULE FOR OPTIONS DEALERS AND COMMODITIES TRADERS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to transactions —

"(i) of an options dealer in the normal course of the dealer's trade or business of dealing with options, or

"(ii) of a commodities trader in the normal course of the trader's trade or business of trading section 1256 contracts.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(ii) COMMODITIES TRADER.— The term 'commodities trader' means any person who is a member (or, to the extent provided in regulations, is entitled to trade as a member) of a domestic board of trade which is designated as a contract market by the Commodity Futures Trading Commission.

"(C) LIMITED PARTNERS AND LIMITED ENTREPRENEURS.—In the case of any gain from a transaction recognized by an entity which is allocable to a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)), subparagraph (A) shall not apply if—

"(i) substantially all of the limited partner's (or limited entrepreneur's) expected return from the entity is attributable to the time value of the partner's (or entrepreneur's) net investment in such entity,

"(ii) the transaction (or the interest in the entity) was marketed or sold as producing capital gains treatment and as a transaction described in subsection (c)(1), or

"(iii) the transaction (or the interest in the entity) is a transaction (or interest) specified in regulations prescribed by the Secretary."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).."

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993, any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993, disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired."

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause."

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1, as amended by section 8202(b), is amended by adding at the end the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) IN GENERAL.—Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 8207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting "in the case of the taxes imposed by sections 3101(a) and 3111(a)" after "(1)",

(B) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking "that part of the net" in paragraph (1) and inserting "in the case of the tax imposed by section 1401(a), that part of the net",

(B) by striking "applicable contribution base (as determined under subsection (k))" in paragraph (1) and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)",

(C) by inserting "and" after "section 3121(b),", and

(D) by striking "and (C) includes" and all that follows through "3111(b)".

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b)."

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 8208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking "($18,340,000 in the case of decedents dying, and gifts made, after 1992)".

(3) The last sentence of section 2101(b) is amended by striking "section 2001(c)(3)" and inserting "section 2001(c)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 8209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking "80 percent" and inserting "50 percent".

(b) SUBSTANTIATION REQUIREMENT.—In the case of taxable years beginning after December 31, 1993, Treasury Regulation §1.274-5T(c)(2)(iii)(B) shall be applied by substituting "$20" for "$25".

(c) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking "80" and inserting "50".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8209A. SENSE OF THE SENATE RELATING TO THE DEDUCTIBILITY OF BUSINESS MEALS AND ENTERTAINMENT EXPENSES.

(a) FINDINGS.—The Congress finds the following:

(1) That—

(A) travel and tourism is the third largest retail industry in the United States and accounts for 11 percent of the total value of goods and services exported by the United States;

(B) in 1992, the tourism industry produced revenues in the amount of $369,000,000,000 which produced $44,000,000,000 in tax revenues; and

(C) of such tax revenues, the Federal Government received $24,000,000,000.

(2) The restaurant industry provides thousands of jobs in the United States.

(3) The American performing arts community supports, develops, and exports world-class performing arts.

(4) The reduction in the rate of the tax deductibility of business meals and entertainment expenses from 80 percent to 50 percent may have a negative impact on the United States restaurant, entertainment, and tourism industries.

(5) Any loss of revenues due to the reduction described in paragraph (4) may result in the loss of jobs in the restaurant, entertainment, and tourism industries, many of which are filled by young individuals in their first jobs and by members of minority groups.

(6) The unemployment rate among individuals and members described in paragraph (5) greatly exceeds the national unemployment rate of 6.9 percent.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the conferees with respect to this title will make every effort to reduce or eliminate the proposed reduction in the deductibility of business meals and entertainment expenses.

SEC. 8210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: "This paragraph shall not apply for purposes of subsection (a)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 8211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or is an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals, but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more outside directors,

"(ii) the material terms under which the remuneration is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which

would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 8212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) QUALIFICATION REQUIREMENT.—

(1) IN GENERAL.—Section 401(a)(17) is amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000",

(B) by striking the second sentence, and

(C) by adding at the end the following new subparagraph:

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—If, for any calendar year after 1994, the excess (if any) of—

"(I) $150,000, increased by the cost-of-living adjustment for the calendar year, over

"(II) the dollar amount in effect under subparagraph (A) for taxable years beginning in the calendar year,

is equal to or greater than $10,000, then the $150,000 amount under subparagraph (A) (as previously adjusted under this subparagraph) for any taxable year beginning in any subsequent calendar year shall be increased by $10,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—The cost-of-living adjustment for any calendar year shall be the adjustment made under section 415(d) for such calendar year, except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1993."

(2) CONFORMING AMENDMENT.—Section 401(a)(17) is amended by striking "(17) A trust" and inserting:

"(17) COMPENSATION LIMIT.—

"(A) IN GENERAL.—A trust".

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B)."

(c) OTHER RELATED PROVISIONS.—

(1) IN GENERAL.—Sections 404(l) and 505(b)(7) are each amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000", and

(B) by striking the second sentence and inserting "The Secretary shall adjust the $150,000 amount at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B)."

(2) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking "$200,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

(2) EXCEPTION FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions or benefits pursuant to such agreements for plan years beginning before the earlier of—

(A) the latest of—

(i) January 1, 1994,

(ii) the date on which the last of such collective bargaining agreements terminates (without regard to any extension, amendment, or modification of such agreements on or after such date of enactment), or

(iii) in the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on such date of enactment, or

(B) January 1, 1997.

(3) TRANSITION RULE FOR STATE AND LOCAL PLANS.—

(A) IN GENERAL.—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the dollar limitation under section 401(a)(17) of such Code shall not apply to the extent the amount of compensation which is allowed to be taken into account under the plan would be reduced below the amount which was allowed to be taken into account under the plan as in effect on July 1, 1993.

(B) ELIGIBLE PARTICIPANT.—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan during a plan year beginning before the 1st plan year beginning after the earlier of—

(i) the plan year in which the plan is amended to reflect the amendments made by this section, or

(ii) December 31, 1995.

(C) PLAN MUST BE AMENDED TO INCORPORATE LIMITS.—This paragraph shall not apply to any eligible participant of a plan unless the plan is amended so that the plan incorporates by reference the dollar limitation under section 401(a)(17) of the Internal Revenue Code of 1986, effective with respect to noneligible participants for plan years beginning after December 31, 1995 (or earlier if the plan amendment so provides).

SEC. 8213. MODIFICATION TO DEDUCTION FOR CERTAIN MOVING EXPENSES.

(a) DOLLAR LIMITATION.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) DOLLAR LIMIT.—

"(i) IN GENERAL.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $10,000, of which the aggregate amount which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500.

"(ii) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in calendar years after 1994, the $10,000 amount under clause (i) shall be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting '1993' for '1992'. Any amount determined under this clause which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.

"(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000' and '$750' for '$1,500'."

(2) FOREIGN MOVES.—Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting:

"(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

"(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) (as modified by subsection (h)(1)(B)) shall be applied by substituting "$2,250" for "$4,500".'."

(b) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting "or" at the end of subparagraph (C), by striking ", or" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217, as amended by subsection (a), is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Section 217 is amended by striking subsection (e).

(c) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 8214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

"(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

"(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

"(ii) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

"(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(2) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) ADDITIONAL INCLUSION FOR CERTAIN TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new paragraph:

"(2) ADDITIONAL AMOUNT.—In the case of a taxpayer with respect to whom the amount determined under subsection (b)(1)(A) exceeds the adjusted base amount, the amount included in gross income under this section shall be equal to the lesser of—

"(A) the sum of—

"(i) 85 percent of such excess, plus

"(ii) the lesser of the amount determined under paragraph (1) or an amount equal to one-half of the difference between the adjusted base amount and the base amount of the taxpayer, or

"(B) 85 percent of the social security benefits received during the taxable year."

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 86 is amended—

(A) by striking "Gross" and inserting:

"(1) IN GENERAL.—Except as provided in paragraph (2), gross", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) ADJUSTED BASE AMOUNT.—Section 86(c) (defining base amount) is amended to read as follows:

"(c) BASE AMOUNT AND ADJUSTED BASE AMOUNT.—For purposes of this section—

"(1) BASE AMOUNT.—The term 'base amount' means—

"(A) except as otherwise provided in this paragraph, $25,000,

"(B) $32,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) ADJUSTED BASE AMOUNT.—The term 'adjusted base amount' means—

"(A) except as otherwise provided in this paragraph, $32,000,

"(B) $40,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer described in paragraph (1)(C)."

(c) TRANSFERS TO THE HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 121(e) of the Social Security Amendments of 1983 (Public Law 92-21) is amended by—

(A) striking "There" and inserting:

"(A) There";

(B) inserting "(i)" immediately following "amounts equivalent to"; and

(C) striking the period and inserting the following: ", less (ii) the amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the amendments to section 86 of such Code made by section 8215 of the Revenue Reconciliation Act of 1993.

"(B) There are hereby appropriated to the hospital insurance trust fund amounts equal to the increase in tax liabilities described in subparagraph (A)(ii). Such appropriated amounts shall be transferred from the general fund of the Treasury on the basis of estimates of such tax liabilities made by the Secretary of the Treasury. Transfers shall be made pursuant to a schedule made by the Secretary of the Treasury that takes into account estimated timing of collection of such liabilities."

(2) DEFINITION.—Paragraph (3) of section 121(e) of such Act is amended by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) HOSPITAL INSURANCE TRUST FUND.—The term 'hospital insurance trust fund' means the fund established pursuant to section 1817 of the Social Security Act.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking "paragraph (1)" and inserting "paragraph (1)(A)."

(4) TECHNICAL AMENDMENTS.—Paragraph (1)(A) of section 121(e) of such Act, as redesignated and amended by paragraph (1), is amended by striking "1954" and inserting "1986".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1993.

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 8221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

"(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

"(D) 35 percent of so much of the taxable income as exceeds $10,000,000.", and

(3) by adding at the end thereof the following new sentence: "In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000."

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking "34 percent" and inserting "35 percent".

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "65 percent".

(2) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 8222. DISALLOWANCE OF DEDUCTION FOR LOBBYING EXPENDITURES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. LOBBYING EXPENDITURES.

"(a) DEDUCTION DISALLOWED.—No deduction shall be allowed under this chapter for any amount paid or incurred—

"(1) for lobbying activities, or

"(2) to another person for the conduct of lobbying activities.

"(b) LOBBYING ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The term 'lobbying activity' means—

"(A) any lobbying contact, or

"(B) any activity in support of a lobbying contact.

"(2) SUPPORT ACTIVITIES.—For purposes of paragraph (1)(B), the following shall be treated as in support of a lobbying contact:

"(A) Any preparation or planning activity relating to a lobbying contact (including, in the case of a lobbyist, the formulation, review, and management of the lobbying contacts on behalf of a client).

"(B) Any research or other background work relating to a lobbying contact.

"(C) Any activity coordinating the lobbying activity of 2 or more persons.

"(3) MEALS, ENTERTAINMENT, OR TRAVEL.—Any amount paid or incurred in connection with the providing of meals, entertainment, or travel to a covered legislative or executive branch official (or to an individual accompanying such official) shall be treated as paid or incurred for a lobbying activity without regard to whether it is in support of a lobbying contact.

"(c) LOBBYING CONTACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'lobbying contact' means—

"(A) in the case of a lobbyist, any oral or written communication with a covered legislative or executive branch official, and

"(B) in the case of any other person, any oral or written communication with a covered legislative or executive branch official in connection with an attempt to influence governmental actions described in paragraph (2).

"(2) GOVERNMENTAL ACTIONS AFFECTED.—The following governmental actions are described in this paragraph:

"(A) The formulation, modification, adoption, or repeal of legislation (including legislative proposals).

"(B) The formulation, modification, adoption, or repeal of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States.

"(C) The administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

"(3) EXCEPTIONS.—The term 'lobbying contact' shall not include any contact—

"(A) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress, a State or local legislative body, or a Federal agency,

"(B) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications,

"(C) made to Federal agency officials with regard to judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or filings required by statute or regulation,

"(D) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or any substantially similar provision, or

"(E) made on behalf of an individual with regard to such individual's benefits, employment, other personal matters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes,

"(F) in the case of any governmental action described in paragraph (2) (B) or (C), which consists of written comments filed in a public docket or other communications made on the record in a public proceeding, or

"(G) in the case of any governmental action described in paragraph (2)(C), which consists of communications which are made to officials serving in the agency responsible for taking such action who serve in the Senior Executive Service or who are members of the uniformed services whose pay grade is lower than 0-9 under section 201 of title 37, United States Code.

"(d) SPECIAL RULE FOR EXEMPT ORGANIZATIONS.—

"(1) TREATMENT OF DUES, ETC.—Subsection (a) shall apply to dues, assessments, or other similar amounts paid by any person to an organization exempt from taxation under this chapter (other than an organization described in section 170(c)) to the extent such dues, assessments, or amounts are attributable to amounts paid or incurred by the organization which are described in subsection (a).

"(2) SPECIAL RULE FOR CHARITIES.—In the case of an organization described in section 170(c) (other than paragraph (1) thereof or section 170(b)(1)(A)(i)), subsection (a) shall apply to any dues, assessments, contributions, or other similar amounts which are paid to the organization and which are otherwise deductible under this chapter to the extent that any such amount—

"(A) is attributable to amounts paid or incurred by the organization which are described in subsection (a),

"(B) is in connection with lobbying activities of direct financial interest to the payor's (or a related person's) trade or business, and

"(C) when added to all other payments made by the payor (and any related person) to the organization during the calendar year in which the taxable year begins, exceeds $2,000.

"(3) ALLOCATION RULES.—For purposes of this subsection—

"(A) dues or other similar amounts paid during any calendar year shall, except as provided by the Secretary, only be attributable to amounts not deductible under subsection (a) which are paid or incurred by the organization during such calendar year, and

"(B) amounts which are not deductible under subsection (a) shall be treated as paid first out of dues or other similar amounts.

"(4) REPORTING REQUIREMENTS.—

"For requirements of organization to notify contributors, see section 6050O.

"(e) OTHER RULES AND DEFINITIONS.—For purposes of this section—

"(1) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of—

"(A) any taxpayer engaged in the trade or business of conducting activities described in subsection (a), or

"(B) any taxpayer who is an employee who is reimbursed by his employer for expenses incurred in conducting such activities,

subsection (a) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person or his employer (but shall apply to payments by such other person or the employer to the taxpayer for conducting the activities).

"(2) AGENCY.—The term 'agency' has the same meaning given such term by section 551(1) of title 5, United States Code.

"(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term 'covered executive branch official' means—

"(A) the President,

"(B) the Vice President,

"(C) any officer or employee of the Executive Office of the President, other than a clerical or secretarial employee,

"(D) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or Executive order,

"(E) any officer or employee serving in a Senior Executive Service position as defined under section 3232(a)(2) of title 5, United States Code,

"(F) any member of the uniformed services whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code, and

"(G) any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to section 7511 of title 5, United States Code.

"(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term 'covered legislative branch official' means—

"(A) a Member of Congress,

"(B) an elected officer of Congress,

"(C) any employee of a Member of the House of Representatives, of a committee of the House of Representatives, or on the leadership staff of the House of Representatives,

"(D) any employee of a Senator, of a Senate committee, or on the leadership staff of the Senate, and

"(E) any employee of a joint committee of the Congress.

Such term includes any member, officer, or employee of a State or local legislative body.

"(5) LOBBYIST.—The term 'lobbyist' means any person who is employed or retained by another person to perform services which include any attempt to influence a governmental action described in subsection (c)(2). Such term does not include a person whose lobbying activities are only incidental to, and are not a significant part of, the services the person performs for such other person. For purposes of the preceding sentence, lobbying activities shall not include activities described in subsection (c)(3).

"(6) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(7) COORDINATION WITH SECTION 4911.—No tax shall be imposed under section 4911 on any amount with respect to which a deduction is not allowed by reason of subsection (d).

"(f) CROSS REFERENCE.—

"For disallowance of deductions for grassroots lobbying expenditures, see section 162(e)(2)."

(2) CONFORMING AMENDMENTS.—

(A) Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any amount paid or incurred—

"(A) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

"(B) in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums.

"(2) APPLICATION TO DUES.—

"(A) IN GENERAL.—No deduction shall be allowed under this chapter for the portion of dues or other similar amounts paid by the taxpayer to an organization which is allocable to the expenditures described in paragraph (1).

"(B) ALLOCATION.—For purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid first out of dues or other similar amounts.

"(3) CROSS REFERENCE.—

"For disallowance of deductions for lobbying expenditures, see section 280I."

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 280I. Lobbying expenditures."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1993.

(b) REPORTING REQUIREMENTS RELATING TO LOBBYING EXPENDITURES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) REQUIREMENT OF REPORTING.—Each organization described in section 280I(d) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 280I.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the organization, and

"(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 280I.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

"(c) DE MINIMUS EXCEPTION.—This section shall not apply to any organization for any calendar year if the organization's lobbying expenditures described in section 280I(a) for such year are less than $2,000. For purposes of the preceding sentence, overhead costs otherwise allocable to lobbying activities shall not be taken into account.

"(d) WAIVER.—The Secretary may waive the reporting requirements of this section with respect to any organization or class of organizations if the Secretary determines that such reporting is not necessary to carry out the purposes of section 280I.

"(e) DUES.—For purposes of this section, the term 'dues' includes assessments, contributions, and other similar amounts."

(2) PENALTIES.—

(A) RETURNS.—Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting ", or", and by adding at the end the following new clause:

"(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures)."

(B) PAYEE STATEMENTS.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting ", or", and by adding at the end the following new subparagraph:

"(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures)."

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050O. Returns relating to lobbying expenditures of certain organizations."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years beginning after December 31, 1993.

SEC. 8223. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by

regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment, and

"(B) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (B) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A) or (B) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(B) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer (or any predecessor) used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for the 5-taxable year period ending with its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 15-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term "qualified security" means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 8224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4,

1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 8225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.—

(1) IN GENERAL.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking "91 percent" each place it appears and inserting "100 percent".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking "91 PERCENT" in the paragraph heading of paragraph (2) and inserting "100 PERCENT".

(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

"In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100."

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting '2 months' for '3 months',

"(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year."

(3) The last sentence of section 6655(g)(3) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8226. MODIFICATIONS OF DISCHARGE OF INDEBTEDNESS PROVISIONS.

(a) REPEAL OF STOCK FOR DEBT EXCEPTION IN DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.—

(1) IN GENERAL.—Subsection (e) of section 108 is amended—

(A) by striking paragraph (10) and by redesignating paragraph (11) as paragraph (10), and

(B) by amending paragraph (8) to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 382(l)(5) is amended to read as follows:

"(C) COORDINATION WITH SECTION 108.—In applying section 108(e)(8) to any case to which subparagraph (A) applies, there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to stock transferred after June 17, 1993, in satisfaction of any indebtedness.

(B) EXCEPTION FOR TITLE 11 CASES.—The amendments made by this subsection shall not apply to stock transferred in satisfaction of any indebtedness if such transfer is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before June 17, 1993.

(C) EXCEPTION FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to any stock transferred after June 17, 1993, and before January 1, 1994, if such transfer is pursuant to a binding contract in effect on June 17, 1993, and at all times thereafter before the transfer.

(D) EXCEPTION FOR CERTAIN FILINGS.—The amendments made by this section shall not apply to any stock transferred in satisfaction of any indebtedness if—

(i) such transfer occurs after June 17, 1993, and before January 1, 1994, and

(ii) the taxpayer had filed with the Securities and Exchange Commission on or before June 17, 1993, a registration statement which proposed a stock-for-debt exchange with respect to such indebtedness, and which discussed the possible application of the stock-for-debt exception to such exchange.

(b) TAX ATTRIBUTES SUBJECT TO REDUCTION.—

(1) MINIMUM TAX CREDIT.—Section 108(b)(2) (relating to tax attributes affected; order of reduction) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F) and by adding after subparagraph (B) the following new subparagraph:

"(C) MINIMUM TAX CREDIT.—The amount of the minimum tax credit available under section 53(b) as of the beginning of the taxable year immediately following the taxable year of the discharge."

(2) PASSIVE ACTIVITY LOSSES AND CREDITS.—Section 108(b)(2), as amended by paragraph (1), is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 108(b)(3) is amended to read as follows:

"(B) CREDIT CARRYOVER REDUCTION.—The reductions described in subparagraphs (B), (C), and (G) shall be 33⅓ cents for each dollar excluded by subsection (a). The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(B) Subparagraph (B) of section 108(b)(4) is amended by striking "(C)" in the text and heading thereof and inserting "(D)".

(C) Subparagraph (C) of section 108(b)(4) is amended by striking "(E)" in the text and heading thereof and inserting "(G)".

(D) Subparagraph (B) of section 108(g)(3) is amended—

(i) by striking "subparagraphs (A), (B), (C), and (E)" and inserting "subparagraphs (A), (B), (C), (D), (F), and (G)",

(ii) by striking "subparagraphs (B) and (E)" and inserting "subparagraphs (B), (C), and (G)", and

(iii) by inserting before the period at the end the following: "and the attribute described in subparagraph (F) of subsection (b)(2) to the extent attributable to any passive activity credit carryover".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8227. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking "as provided in paragraph (3)" in paragraph (1) and inserting "as otherwise provided in this section";

(2) by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—

"(A) IN GENERAL.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed the sum of the following amounts:

"(i) 95 percent of the sum of—

"(I) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, plus

"(II) the allocable employee fringe benefit expenses of the possession corporation for the taxable year.

"(ii) The sum of—

"(I) 50 percent of the depreciation deductions allowable under section 167 to the possession corporation for the taxable year with respect to short-life qualified tangible property,

"(II) 75 percent of the depreciation deductions allowable under section 167 to the possession corporation for the taxable year with respect to medium-life qualified tangible property, and

"(III) 100 percent of the depreciation deductions allowable under section 167 to the possession corporation for the taxable year with respect to long-life qualified tangible property.

"(iii) If the possession corporation does not have an election to use the method described in subsection (h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of qualified possession income taxes for the taxable year allocable to nonsheltered income.

"(B) ELECTION TO TAKE REDUCED CREDIT.—

"(i) IN GENERAL.—If an election under this subparagraph applies to a possession corporation for any taxable year—

"(I) subparagraph (A), and the provisions of subsection (i), shall not apply to such possession corporation for such taxable year, and

"(II) the credit determined under paragraph (1)(A) for such taxable year shall be the applicable percentage of the credit which would otherwise have been determined under such paragraph.

Notwithstanding subclause (I), a possession corporation to which an election under this subparagraph applies shall be entitled to the benefits of subsection (i)(3)(B) for taxes allocable (on a pro rata basis) to taxable income the tax on which is not offset by reason of this subparagraph.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined in accordance with the following table:

In the case of taxable year beginning in:	The percentage is:
1994	60
1995	55
1996	50
1997	45
1998 and thereafter	40.

"(iii) ELECTION.—

"(I) IN GENERAL.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1993, for which it is a possession corporation.

"(II) PERIOD OF ELECTION.—An election under this subparagraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked.

"(III) AFFILIATED GROUPS.—If, for any taxable year, an election is not in effect for any possession corporation which is a member of an affiliated group, any election under this subparagraph for any other member of such group is revoked for such taxable year and all subsequent taxable years. For purposes of this subclause, members of an affiliated group shall be determined without regard to the exceptions contained in section 1504(b) and as if the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a). The Secretary may prescribe regulations to prevent the avoidance of this subclause through deconsolidation or otherwise.

"(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."; and

(3) by inserting "97.5 percent of" after "equal to" in paraagraph (1).

(b) DEFINITIONS AND SPECIAL RULES.—Section 936 is amended by adding at the end thereof the following new subsection:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year in connection with the active conduct of a trade or business within a possession of the United States to any employee for services performed in such possession, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed 85 percent of the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (6) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) ALLOCABLE EMPLOYEE FRINGE BENEFIT EXPENSES.—

"(A) IN GENERAL.—The allocable employee fringe benefit expenses of any possession corporation for any taxable year is an amount which bears the same ratio to the amount determined under subparagraph (B) for such taxable year as—

"(i) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, bears to

"(ii) the aggregate amount of the wages paid or incurred by such possession corporation during such taxable year.

In no event shall the amount determined under the preceding sentence exceed 15 percent of the amount referred to in clause (i).

"(B) EXPENSES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph for any taxable year is the aggregate amount allowable as a deduction under this chapter to the possession corporation for such taxable year (determined without regard to paragraph (5)) with respect to—

"(i) employer contributions under a stock bonus, pension, profit-sharing, or annuity plan,

"(ii) employer-provided coverage under any accident or health plan for employees, and

"(iii) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (1)(D) shall not be taken into account under this subparagraph.

"(3) TREATMENT OF POSSESSION TAXES.—

"(A) AMOUNT OF CREDIT FOR POSSESSION CORPORATIONS NOT USING PROFIT SPLIT.—

"(i) IN GENERAL.—For purposes of subsection (a)(4)(A)(iii), the amount of the qualified possession income taxes for any taxable year allocable to nonsheltered income shall be an amount which bears the same ratio to the possession income taxes for such taxable year as—

"(I) the increase in the tax liability of the possession corporation under this chapter by reason of subsection (a)(4)(A) (without regard to clause (iii) thereof) and paragraph (5) of this subsection, bears to

"(II) the tax liability of the possession corporation for the taxable year determined without regard to the credit allowable under this section and without regard to paragraph (5) of this subsection.

"(ii) LIMITATION ON AMOUNT OF TAXES TAKEN INTO ACCOUNT.—Possession income taxes shall not be taken into account under clause (i) for any taxable year to the extent that the amount of such taxes exceeds 9 percent of the amount of the taxable income for such taxable year.

"(B) DEDUCTION FOR POSSESSION CORPORATIONS USING PROFIT SPLIT.—Notwithstanding subsection (c) if a possession corporation is not described in subsection (a)(4)(A)(iii) for any taxable year, such possession corporation shall be allowed a deduction for such taxable year in an amount which bears the same ratio to the possession income taxes for such taxable year as—

"(i) the increase in the tax liability of the possession corporation under this chapter by reason of subsection (a)(4)(A) and paragraph (5) of this subsection, bears to

"(ii) the tax liability of the possession corporation for the taxable year determined without regard to the credit allowable under this section and without regard to paragraph (5) of this subsection.

In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(C) POSSESSION INCOME TAXES.—For purposes of this paragraph, the term 'possession income taxes' means any taxes of a possession of the United States which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c).

"(4) CATEGORIES OF DEPRECIABLE PROPERTY.—For purposes of this section—

"(A) QUALIFIED TANGIBLE PROPERTY.—The term 'qualified tangible property' means any tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession.

"(B) SHORT-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'short-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is 3-year property or 5-year property for purposes of such section.

"(C) MEDIUM-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'medium-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is 7-year property or 10-year property for purposes of such section.

"(D) LONG-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'long-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is not described in subparagraph (B) or (C).

"(E) TRANSITIONAL RULE.—In the case of any qualified tangible property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applies, any reference in this paragraph to section 168 shall be treated as a reference to such section as so in effect.

"(5) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this chapter, no deduction shall be allowed to a possession corporation for—

"(i) any qualified possession wages,

"(ii) any allocable employee fringe benefit expenses, and

"(iii) any depreciation deductions referred to in subsection (a)(4)(A)(ii).

"(B) COORDINATION WITH OTHER PROVISIONS.—Subparagraph (A) shall not apply for purposes of—

"(i) determining the amount of the credit allowable under subsection (a)(1)(A) or otherwise determining the taxable income of the possession corporation under any other provision of this section, and

"(ii) determining adjustments to the basis of any property on account of depreciation deductions.

"(6) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b) (3) or (4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking "sections 936 and 921" and inserting "sections 936 (including subsections (a)(4) and (i) thereof) and 921".

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

"(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsections (a)(4) and (i) thereof)".

(e) INCREASE IN LIMITATION ON COVER OVER.—Paragraph (1) of section 7652(f) is amended to read as follows:

"(1) $10.50 ($11.30 in the case of distilled spirits brought into the United States during the 5-year period beginning on July 1, 1995), or."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993; except that the amendment made by subsection (e) shall take effect on October 1, 1993.

SEC. 8228. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

"(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

"(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

"(i) there is a disqualified guarantee of such indebtedness, and

"(ii) no gross basis tax is imposed by this subtitle with respect to such interest."

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

"(D) DISQUALIFIED GUARANTEE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified guarantee' means any guarantee by a related person which is—

"(I) an organization exempt from taxation under this subtitle, or

"(II) a foreign person.

"(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

"(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

"(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

"(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee' includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

"(E) GROSS BASIS AND NET BASIS TAXATION.—

"(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

"(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax."

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 163(j)(5) is amended by striking "to a related person".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 8231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3))."

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

"(b) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(1) the amount referred to in section 316(a)(1) to the extent such amount was accumulated in taxable years beginning after September 30, 1993, and

"(2) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and reduced by the earnings and profits described in section 959(c)(1) to the extent that the earnings and profits so described were accumulated in taxable years beginning after September 30, 1993.

"(c) EXCESS PASSIVE ASSETS.—For purposes of this section—

"(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

"(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

"(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of the following provisions shall apply:

"(A) Section 1296(c) (relating to look-thru rules).

"(B) Section 1297(d) (relating to leasing rules).

"(C) Section 1297(e) (relating to intangible property).

"(d) TREATMENT OF CERTAIN CHAINS OF CONTROLLED FOREIGN CORPORATION.—

"(1) IN GENERAL.—For purposes of applying subsection (c)—

"(A) all controlled foreign corporations which are members of the same CFC chain shall be treated as 1 controlled foreign corporation, and

"(B) the amount of the excess passive assets determined with respect to such 1 corporation shall be allocated among the controlled foreign corporations which are members of such chain in proportion to their respective amounts of applicable earnings.

"(2) CFC CHAIN.—For purposes of paragraph (1), the term 'CFC chain' means any chain of controlled foreign corporations connected through stock ownership, but only if more than 50 percent (by vote or value) of the stock of each member of such chain (other than the top tier corporation) is owned (directly or indirectly) by one or more other members of the chain.

"(e) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

"(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise."

(c) PREVIOUSLY TAXED INCOME RULES.—

(1) IN GENERAL.—Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,".

(2) ALLOCATION RULES.—

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.".

(B) Section 959 is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—

"(1) IN GENERAL.—For purposes of this section—

"(A) amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3), and

"(B) amounts that would be included under subparagraph (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2) to the extent the earnings so described were accumulated in taxable years beginning after September 30, 1993, and then to earnings described in subsection (c)(3).

"(2) TREATMENT OF DISTRIBUTIONS.—In applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section)."

(C) Paragraph (1) of section 959(c) is amended to read as follows:

"(1) first to the aggregate of—

"(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

"(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking "earnings and profits for a taxable year" and inserting "earnings and profits".

(B) Paragraph (2) of section 959(c) is amended to read as follows:

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and"

(C) Subsection (b) of section 989 is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

"In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock."

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—

"(A) IN GENERAL.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by a controlled foreign corporation which is not so registered.

"(B) APPLICATION OF LOOK-THRU RULES.—For purposes of paragraph (2)(C), rules similar to the rules of subparagraph (A) of this paragraph shall apply in determining whether any income of a related person (whether or not a corporation) is passive income.

"(C) LIMITATION.—The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING AND INTANGIBLE ASSET RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part:

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this section.

"(e) SPECIAL RULES FOR CERTAIN INTANGIBLES.—

"(1) RESEARCH EXPENDITURES.—The adjusted basis of the total assets of a controlled foreign corporation shall be increased by the research or experimentation expenditures (within the meaning of section 174) paid or incurred by such foreign corporation during the taxable year and the preceding 2 taxable years.

"(2) CERTAIN LICENSED INTANGIBLES.—In the case of any intangible property (as defined in section 936(h)(3)(B)) with respect to which a controlled foreign corporation is a licensee and which is used by such foreign corporation in the active conduct of a trade or business, the adjusted basis of the total assets of such foreign corporation shall be increased by an amount equal to 300 percent of the payments made during the taxable year for the use of such intangible property. For purposes of the preceding sentence, payments to a foreign person shall not be taken into account if such foreign person is a related person (as defined in section 954(d)(3)) with respect to the controlled foreign corporation.

"(3) CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term 'controlled foreign corporation' has the meaning given such term by section 957(a)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 8232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS; OTHER SPECIAL RULES.—

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(b), except that the provisions of such section disregarding earnings and profits accumulated in taxable years beginning before October 1, 1993 shall be disregarded.

"(2) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(e) shall apply for purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and"

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 8233. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) SIMPLIFICATION OF SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

"(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are attributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

"(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

"(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

"(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for the inclusions in gross income described in clause (i).

"(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

"(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconcilation Act of 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

Subpart B—Allocation of Research and Experimental Expenditures

SEC. 8234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking "64 percent" each place it appears and inserting "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following new paragraphs:

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research.

"(6) APPLICABILITY.—This subsection shall apply to the taxpayer's first taxable year (beginning on or before August 1, 1994) following the taxpayer's last taxable year to which Revenue Procedure 92-56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure."

(2) Subparagraph (D) of section 864(f)(4) is amended by striking "subparagraph (C)" and inserting "subparagraph (B) or (C)".

Subpart C—Other Provisions

SEC. 8235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting "and" at the end of subclause (II), by striking ", and" at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

Such term shall not include any foreign personal holding company income (as defined in subsection (c)).".

(B) Paragraph (8) of section 954(b) is amended by striking "(1),".

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: "Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8236. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts."

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

"(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

"(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

"(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

"(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

"(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States."

(c) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion."

(d) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

"(iii) in paragraph (1)(B)(ii)—

"(I) '$20,000,000' for '$5,000,000', and

"(II) '20 percent' for '10 percent'."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

"(i) any interest if the amount of such interest is determined by reference to—

"(I) any receipts, sales or other cash flow of the debtor or a related person,

"(II) any income or profits of the debtor or a related person,

"(III) any change in value of any property of the debtor or a related person, or

"(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

"(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

"(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued."

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking "section 871(h)(4)" and inserting "section 871(h)(5)".

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking "section 871(h)(5)" each place it appears and inserting "section 871(h)(6)".

(4) Paragraph (9) of section 1441(c) is amended by striking "section 871(h)(3)" and inserting "section 871(h)(3) or (4)".

(5) Subsection (a) of section 1442 is amended—

(A) by striking "871(h)(3)" and inserting "871(h)(3) or (4)", and

(B) by striking "881(c)(3)" and inserting "881(c)(3) or (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 8238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title."

SEC. 8239. TREATMENT OF EXPORT OF CERTAIN SOFTWOOD LOGS.

(a) FOREIGN SALES CORPORATIONS.—Paragraph (2) of section 927(a) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding at the end the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(b) DOMESTIC INTERNATIONAL SALES CORPORATIONS.—Paragraph (2) of section 993(c) (relating to exclusion of certain property) is amended—

(1) by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding after subparagraph (D) the following new subparagraph:

"(E) any unprocessed timber which is a softwood.", and

(2) by adding at the end the following new sentence: "For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(c) SOURCE RULE.—Subsection (b) of section 865 (relating to source rules for personal property sales) is amended by adding at the end the following: "Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' means any log, cant, or similar form of timber."

(d) ELIMINATION OF DEFERRAL.—Subsection (d) of section 954 is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN TIMBER PRODUCTS.—For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) the sale of any unprocessed timber referred to in section 865(b), or

"(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.

PART IV—TRANSPORTATION FUELS PROVISIONS

Subpart A—Transportation Fuels Tax

SEC. 8241. TRANSPORTATION FUELS TAX.

(a) GASOLINE.—

(1) IN GENERAL.—Clause (iii) of section 4081(a)(2)(B) (relating to rates of tax) is amended to read as follows:

"(iii) the deficit reduction rate is 6.8 cents a gallon (4.3 cents a gallon on and after October 1, 1995)."

(2) DEFICIT REDUCTION RATE MADE PERMANENT.—Section 4081(d) (relating to termination) is amended by striking paragraph (3).

(b) DIESEL FUEL AND AVIATION FUEL.—

(1) DIESEL FUEL.—

(A) IN GENERAL.—Paragraph (4) of section 4091(b) (relating to rate of tax) is amended by striking "2.5 cents per gallon" and inserting "6.8 cents per gallon (4.3 cents per gallon on and after October 1, 1995)".

(B) DIESEL FUEL DEFICIT REDUCTION RATE MADE PERMANENT.—Section 4091(b)(6) (relating to termination) is amended by striking subparagraph (D).

(2) AVIATION FUEL.—

(A) GASOLINE IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is 1 cent."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 4093(c)(2) are amended to read as follows:

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed under such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

"(B) NO REFUND OF CERTAIN TAXES ON FUEL USED IN AIRCRAFT.—In the case of fuel sold for use in any aircraft (except supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the aviation fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof."

(B) Section 4093(d) is amended by inserting "and the aviation fuel deficit reduction rate" after "rate".

(c) SPECIAL FUELS.—Section 4041(m)(1)(A) is amended by striking "1.25 cents" and inserting "5.55 cents (4.3 cents on and after October 1, 1995)".

(d) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—

(1) IN GENERAL.—Section 4042(b)(1) (relating to amount of tax) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) the deficit reduction rate."

(2) RATE.—Section 4042(b)(2) (relating to rates) is amended by adding at the end the following new subparagraph:

"(C) The deficit reduction rate is 4.3 cents per gallon."

(e) CONFORMING AMENDMENTS.—

(1) Section 6421(f) is amended—

(A) by striking subparagraph (B) of paragraph (2) and inserting the following:

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate to the extent such deficit reduction rate does not exceed 4.3 cents per gallon.", and

(B) by inserting "and at the deficit reduction rate to the extent such deficit reduction rate does not exceed 4.3 cents per gallon" after "financing rate" in paragraph (3), and

(C) by inserting "AND DEFICIT REDUCTION TAX" after "TAX" in the heading for paragraph (3).

(2) Section 6427(l) is amended by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

"(4) NO REFUND OF CERTAIN TAXES ON FUEL USED IN AIRCRAFT.—In the case of fuel used in any aircraft (except supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the aviation fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof."

(3) Section 9502(b)(3) is amended by inserting "and the deficit reduction rate" after "financing rate".

(4) Section 9503(b)(4)(B) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(5) Section 9503(c)(4)(D) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(6) Section 9503(c)(5)(B) is amended by inserting "and the deficit reduction rate under such section to the extent such rate does not exceed 4.3 cents per gallon" after "such section".

(7) Section 9503(c)(6)(D) is amended by inserting "and the deficit reduction rate to the extent such rate does not exceed 4.3 cents per gallon" after "financing rate".

(8) Section 9506(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(g) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline, diesel fuel, and aviation fuel on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before October 1, 1993, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon on such gasoline, diesel fuel, and aviation fuel.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or aviation fuel on October 1, 1993, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before November 30, 1993.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Gasoline, diesel fuel, and aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(C) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(D) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TAX.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on October 1, 1993, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel or aviation fuel held on October 1, 1993, by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

Subpart B—Modifications to Tax on Diesel Fuel

SEC. 8242. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes), as amended by subpart A, are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

"Sec. 4081. Imposition of tax.

"Sec. 4082. Exemptions for diesel fuel.

"Sec. 4083. Definitions and special rule.

"Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of a taxable fuel from any refinery,

"(ii) the removal of a taxable fuel from any terminal,

"(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

"(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel and the operator of such terminal or refinery are registered under section 4101.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(iii) the deficit reduction rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is—

"(I) 11.5 cents per gallon in the case of gasoline, and

"(II) 17.5 cents per gallon in the case of diesel fuel,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

"(iii) the deficit reduction rate is 6.8 cents per gallon (4.3 cents per gallon on and after October 1, 1995).

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) REDUCED RATES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are the applicable fraction of the otherwise applicable rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing such a mixture after the time of such removal or entry.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—

"(I) 9 in the case of 10 percent gasohol,

"(II) 9.23 in the case of 7.7 percent gasohol, and

"(III) 9.43 in the case of 5.7 percent gasohol, and

"(ii) in the case of a qualified alcohol mixture which does not contain gasoline, 1%.

"(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(3) ALCOHOL; QUALIFIED ALCOHOL MIXTURE.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means—

"(i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and

"(ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

"(4) OTHERWISE APPLICABLE RATES FOR GASOLINE MIXTURES.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

"(5) OTHERWISE APPLICABLE RATES FOR DIESEL FUEL MIXTURES.—For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate for diesel fuel in a qualified alcohol mixture is 12.1 cents per gallon (11.5 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

"(6) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 2000.

"(d) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.

"(a) IN GENERAL.—Except as provided in subsection (d), the tax imposed by section 4081 shall not apply to diesel fuel—

"(1) which the Secretary determines is destined for a nontaxable use, and

"(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe.

Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

"(2) any use in a train, and

"(3) any use described in section 6427(b)(1).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

"(d) CROSS REFERENCE.—

"For tax on train, motorboat, and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS AND SPECIAL RULE.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) gasoline, and

"(B) diesel fuel.

"(2) GASOLINE.—The term 'gasoline' includes, to the extent prescribed in regulations—

"(A) gasoline blend stocks, and

"(B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term 'gasoline blend stock' means any petroleum product component of gasoline.

"(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat.

"(b) CERTAIN USES DEFINED AS REMOVAL.—If any person uses taxable fuel (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

"SEC. 4084. CROSS REFERENCES.

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

"Subpart B—Aviation Fuel

"Sec. 4091. Imposition of tax.

"Sec. 4092. Exemptions.

"Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

"(a) TAX ON SALE.—

"(1) IN GENERAL.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

"(2) USE TREATED AS SALE.—For purposes of paragraph (1), if any producer uses aviation fuel (other than for a nontaxable use as defined in section 6427(l)(2)(B)) on which no tax has been imposed under such paragraph, then such use shall be considered a sale.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A) the Airport and Airway Trust Fund financing rate,

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(4) DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the deficit reduction rate is 4.3 cents per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

"(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon and the deficit reduction rate shall be 10/9 of such rate.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 2000.

"(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanol—

"(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

"(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10/9 of the rates determined under paragraph (1).

"SEC. 4092. EXEMPTIONS.

"(a) NONTAXABLE USES.—The Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

"(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—The Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

"SEC. 4093. DEFINITIONS.

"(a) AVIATION FUEL.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, blender, or wholesale distributor of aviation fuel, or

"(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

"(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer."

(b) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE.

"(a) IMPOSITION OF PENALTY.—If any dyed fuel—

"(1) is sold or held for sale by any person for any use which such person knows or has reason to know is not a reduced-tax use of such fuel, or

"(2) is used by any person for a use other than a reduced-tax use and such person knew, or had reason to know, that such fuel was so dyed,

then, in addition to the tax, such person shall pay a penalty on such sale or use.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) on any sale or use shall be the greater of—

"(1) $1,000, or

"(2) an amount equal to twice the excess of the aggregate taxes which should have been imposed under section 4081 on the fuel so sold or used over the prior taxes (if any) imposed on such fuel under such section which have not been credited or refunded.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DYED FUEL.—The term 'dyed fuel' means diesel fuel dyed in accordance with section 4082.

"(2) REDUCED-TAX USE.—The term 'reduced-tax use' means, with respect to any fuel, the use for which such fuel was dyed."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Dyed fuel sold for use or used in taxable use."

(c) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR REFUND OF DIESEL FUEL.—Section 6427(l) (relating to nontaxable uses of diesel fuel and aviation fuel) is amended by adding at the end the following new paragraph:

"(5) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR REFUND OF DIESEL FUEL SOLD TO FARMERS AND STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the ultimate purchaser of undyed diesel fuel used on a farm for farming purposes (within the meaning of section 6420(c)) or for the exclusive use of a State or local government.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would have otherwise been paid under paragraph (1) (without regard to subparagraph (A)) shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of section 6416(a)."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended by striking ", section 4081(c), or section 4091(c)" and inserting "or section 4081(c)".

(2) Subsection (a) of section 4101 is amended by striking "4081" and inserting "4041(a)(1), 4081,".

(3) Section 4102 is amended by striking "gasoline" and inserting "any taxable fuel (as defined in section 4083)".

(4) Paragraph (1) of section 4041(a), as amended by subtitle A, is amended to read as follows:

"(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

"(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable removal of such fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the deficit reduction rate in effect under section 4081 at the time of such sale or use.

"(ii) CERTAIN RATES NOT TO APPLY TO TRAINS.—

"(I) HIGHWAY TRUST FUND FINANCING RATE.—The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.

"(II) DEFICIT REDUCTION RATE.—The deficit reduction rate shall not apply to any sale for use, or use, of fuel in a train if such fuel is used by a State or any political subdivision thereof

"(iii) CERTAIN BUS USES.—If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and so much of the deficit reduction rate as exceeds 4.3 cents per gallon shall not apply."

(5) Paragraph (2) of section 4041(a), as amended by subtitle A, is amended by striking "or paragraph (1) of this subsection" and by inserting "on gasoline" after "Highway Trust Fund financing rate".

(6) Paragraph (1) of section 4041(c), as amended by subpart A, is amended by striking "the aviation fuel deficit reduction rate" and inserting "the deficit reduction rate imposed under section 4091 on".

(7) Paragraph (2) of section 4041(c) is amended by striking "any product taxable under section 4081" and inserting "gasoline (as defined in section 4083)".

(8) Paragraph (2) of section 4041(d) is amended—

(A) by striking "(other than a product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))", and

(B) by striking "section 4091" and inserting "section 4081".

(9) Paragraph (3) of section 4041(d) is amended by striking "(other than any product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))".

(10) Subparagraph (A) of section 4041(k)(1) is amended by striking "sections 4081(c) and 4091(c), as the case may be" and inserting "section 4081(c)".

(11) Subparagraph (B) of section 4041(m)(1) is amended by striking "section 4091(d)(1)" and inserting "section 4091(c)(1)".

(12) Section 6206 is amended by striking "4041 or 4091" and inserting "4041, 4081, or 4091".

(13) The heading for subsection (f) of section 6302 is amended by inserting "AND DIESEL FUEL" after "GASOLINE".

(14) Paragraph (1) of section 6412(a) is amended by striking "gasoline" each place it appears (including the heading) and inserting "taxable fuel".

(15)(A) Subparagraph (A) of section 6416(a)(4) is amended by striking "product" each place it appears and inserting "gasoline".

(B) Subparagraph (B) of section 6416(a)(4) is amended by striking all that follows "substituting" and inserting "'any gasoline taxable under section 4081' for 'aviation fuel' therein)."

(16) The third sentence of section 6416(b)(2) is amended by inserting "any tax imposed under section 4081 on diesel fuel and" after "in the case of".

(17) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking "section 4082(b)" and inserting "section 4083(a)".

(18) Section 6421(e)(2)(B)(iv), as added in subtitle A, is amended

(A) by striking "4091" both places it appears and inserting "4081", and

(B) by striking "diesel fuel deficit" in subclause (I) and inserting "deficit".

(19) Subsection (b) of section 6427 is amended—

(A) by striking "if any fuel" in paragraph (1) and inserting "if any fuel other than gasoline (as defined in section 4083(a))", and

(B) by striking "4091" each place it appears and inserting "4081".

(20)(A) Paragraph (1) of section 6427(f) is amended by striking ", 4091(c)(1)(A), or 4091(d)(1)(A)" and inserting "or 4091(c)(1)(A)".

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(21) Subsection (h) of section 6427 is amended by striking "section 4082(b)" and inserting "section 4083(a)(2)".

(22) Paragraph (3) of section 6427(i) is amended—

(A) by striking "GASOHOL" in the heading and inserting "ALCOHOL MIXTURE", and

(B) by striking "gasoline used to produce gasohol (as defined in section 4081(c)(1))" in subparagraph (A) and inserting "gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))".

(23) The heading of paragraph (4) of section 6427(i) is amended by inserting "4081 OR" before "4091".

(24) Subsection (l) of section 6427, as amended by subpart A, is amended to read as follows:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if—

"(A) any diesel fuel on which tax has been imposed by section 4081, or

"(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof, and

"(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of the imposition of tax on any sale thereof.

"(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—Fuel used in a diesel-powered train shall be treated as a nontaxable use for purposes of this section, except that paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate imposed by such section, unless such fuel was used by a State or any political subdivision thereof.

"(4) NO REFUND OF CERTAIN TAXES ON FUELS USED IN AIRCRAFT.—In the case of fuel used in any aircraft (other than as supplies for vessels or aircraft, within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate imposed by such section. The preceding sentence shall not apply if such fuel was used by a State or any political subdivision thereof."

(25) Paragraph (1) of section 9503(b) is amended—

(A) by striking "gasoline)," in subparagraph (E) and inserting "gasoline and diesel fuel), and",

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(26)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(B) Subparagraph (C) of section 9503(b)(4), as amended by subtitle A, is amended by striking "4091" and inserting "4081".

(27) Subparagraph (D) of section 9503(c)(6) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(28) Paragraph (2) of section 9503(e) is amended—

(A) by striking ", 4081, and 4091" and inserting "and 4081", and

(B) by striking ", 4081, or 4091" and inserting "or 4081".

(29) Subsection (b) of section 9508 is amended—

(A) by inserting "and diesel fuel" after "gasoline" in paragraph (2),

(B) by striking "diesel fuel and" in paragraph (3), and

(C) by striking "4091" in the last sentence, as added by subtitle A, and inserting "4081".

(30) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

"Subpart A. Gasoline and diesel fuel.

"Subpart B. Aviation fuel."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 8243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on January 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to such fuel for periods before such date of enactment.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on January 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before July 31, 1994.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.

Subpart C—Extension of Motor Fuel Tax Rates; Increased Deposits Into Highway Trust Fund

SEC. 8244. EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Clause (i) of section 4081(a)(2)(B), as amended by subpart B, is amended—

(1) by striking "11.5 cents" and inserting "14 cents", and

(2) by striking "17.5 cents" and inserting "20 cents".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4081(c)(4), as so amended, is amended to read as follows:

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

"(i) 8.6 cents a gallon for 10 percent gasohol,

"(ii) 9.842 cents a gallon for 7.7 percent gasohol, and

"(iii) 10.922 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '8.0 cents' for '8.6 cents', '9.38 cents' for '9.842 cents', and '10.58 cents' for '10.922'."

(2) Paragraph (5) of section 4081(c), as so amended, is amended—

(A) by striking "12.1 cents" and inserting "14.6 cents", and

(B) by striking "11.5 cents" and inserting "14.0".

(3) Subparagraph (A) of section 4041(m)(1), as amended by subpart A, is amended to read as follows:

"(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon and the deficit reduction rate shall be 4.3 cents per gallon, and".

(4) Clause (ii) of section 4041(a)(1)(C), as so amended, is amended—

(A) by striking "The Highway Trust Fund financing rate" and inserting "So much of the Highway Trust Fund financing rate as exceeds 2.5 cents per gallon", and

(B) by striking "HIGHWAY RATE" in the heading and inserting "PORTION OF HIGHWAY RATE".

(5) Paragraph (4) of section 6427(l), as amended by subpart B, is amended—

(A) by inserting "2.5 cents per gallon of the Highway Trust Fund financing rate and" after "attributable to", and

(B) by striking "DEFICIT REDUCTION TAX" in the heading and inserting "PORTION OF TAX".

(6) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

"(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

"(i) the tax imposed by section 4081 on diesel fuel used in any train, and

"(ii) so much of the nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)) as are attributable to 2.5 cents of the Highway Trust Fund financing rate.

"(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the amount paid from the Highway Trust Fund under subsection (c)(6), the Highway Trust Fund financing rate shall be treated as being 2.5 cents less than the otherwise applicable rate."

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) is amended by striking "1.5 cents" and inserting "2 cents".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.

PART V—COMPLIANCE PROVISIONS

SEC. 8251. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED.—

(1) SUBSTANTIAL UNDERSTATEMENT PENALTY.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

"(II) there is a reasonable basis for the tax treatment of such item by the taxpayer."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 8252. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

"(a) IN GENERAL.—Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

"(2) the date of the discharge and the amount of the indebtedness discharged, and

"(3) such other information as the Secretary may prescribe.

"(b) EXCEPTION.—Subsection (a) shall not apply to any discharge of less than $600.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE FINANCIAL ENTITY.—The term 'applicable financial entity' means—

"(A) any financial institution described in section 581 or 591(a) and any credit union,

"(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing, and

"(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A).

"(2) GOVERNMENTAL UNITS.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every applicable financial entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the entity required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES.—

(1) RETURNS.—Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (viii) through (xv) as clauses (ix) through (xvi), respectively, and by inserting after clause (vii) the following new clause:

"(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(2) STATEMENTS.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

"(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 8261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined

by amortizing 75 percent of the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE DEFINED.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 14 years, or

"(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

"(8) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section

197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) SPECIAL RULES FOR ACQUISITION OF CERTAIN COMPUTER SOFTWARE BUSINESSES.—

"(1) IN GENERAL.—In the case of any section 197 intangible acquired in a transaction to which this subsection applies, subsection (a) shall be applied with respect to one-half of the 75 percent of its adjusted basis which is amortizable under subsection (a) by substituting '5-year period' for '14-year period'.

"(2) TRANSACTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof if—

"(i) the principal business activity of the trade or business (or portion) is computer software development, computer sales, licensing, or leasing, the provision of computer software services, or a combination thereof, and

"(ii) during the testing period, the aggregate computer software development costs of such trade or business (or portion) are not less than 17 percent of the greater of—

"(I) the aggregate gross receipts of such trade or business (or portion), or

"(II) the aggregate gross expenditures of such trade or business (or portion).

"(B) COMPUTER SOFTWARE DEVELOPMENT COSTS.—For purposes of subparagraph (A), the term 'computer software development costs' means the sum of—

"(i) the computer software development costs which qualify as research and experimentation expenditures under section 174, plus

"(ii) the amortization deductions of the trade or business with respect to computer software not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(C) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the 5-year period ending on the date of the last transaction described in subparagraph (A) pursuant to which the section 197 intangible was acquired (or, if shorter, the entire period of existence of the trade or business (or portion) before such date).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 197 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary.

"(3) MORTGAGE SERVICING RIGHTS.—If a depreciation deduction is allowable under subsection (a) with respect to any right described in section 197(e)(7), such deduction shall be computed by using the straight line method and a useful life of 108 months."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 8262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 8271. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 8272. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

SEC. 8273. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX.—Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

"(c) APPLICATION OF SECTION.—The tax imposed by this section shall apply—

"(1) after December 31, 1987, and before January 1, 1993, and

"(2) during periods after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993."

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "and before October 1, 1992,".

(c) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable vaccine—

(A) which was sold by the manufacturer, producer, or importer before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.

TITLE IX—COMMITTEE ON FOREIGN RELATIONS

SEC. 9001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FOREIGN SERVICE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect under section 826 or 858 of the Foreign Service Act of 1980 during fiscal year 1994, 1995, or 1996.

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would take effect but for this subsection.

(c) RULE OF CONSTRUCTION.—

(1) SIZE OF COST-OF-LIVING ADJUSTMENT.—Nothing in this section shall be considered to affect the size of the cost-of-living adjustment under section 8340(b) or section 8462(b) of title 5, United States Code, in the same fiscal year as a cost-of-living increase described in subsection (a).

(2) DETERMINATIONS OF ELIGIBILITY.—The delay in the effective date of cost-of-living adjustments under subsection (b) shall not affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 826 or 858 of the Foreign Service Act of 1980.

SEC. 9002. ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION UNDER THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM EXCEPT FOR INDIVIDUALS WITH CRITICAL MEDICAL CONDITIONS.

(a) IN GENERAL.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1994.

TITLE X—COMMITTEE ON GOVERNMENTAL AFFAIRS

Subtitle A—Civil Service

SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code; or

(2) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102-496; 106 Stat. 3196).

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340 (b) or (c) or section 8462 (b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 10002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking "an employee or Member may," and inserting "any employee or Member who has a life-threatening affliction or other critical medical condition may,"; and

(2) by striking subsection (f).

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102-496; 106 Stat. 3196), is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995, and shall apply with respect to any annuity commencing on or after that date.

SEC. 10003. DISTRICT OF COLUMBIA GOVERNMENT CONTRIBUTIONS FOR CERTAIN EMPLOYEE AND ANNUITANT HEALTH BENEFITS.

(a) CONTRIBUTIONS AFTER 1993.—

(1) IN GENERAL.—Section 8906(g) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) The Government contributions authorized by this section for health benefits for an annuitant shall be paid by the government of the District of Columbia, in the case of an annuitant whose eligibility for an annuity is based on a separation from service with such government, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by such government.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1993, and shall apply with respect to amounts payable for periods beginning on or after that date.

(b) CONTRIBUTIONS FOR PERIOD BETWEEN 1975 AND 1993.—

(1) IN GENERAL.—The government of the District of Columbia shall pay into the Employees Health Benefit Fund, as payment for any amounts which would, for the period beginning on January 1, 1975 through September 30, 1993, have been payable under the provisions of section 8906(g)(3) of title 5, United States Code (as added by subsection (a)(1) of this section) if such provision had been in effect as of January 1, 1975, of which—

(A) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1994;

(B) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1995;

(C) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1996; and

(D) any remaining balance shall be paid no later than January 1, 1997.

(2) PRORATED PAYMENTS.—In determining any amount for which the government of the District of Columbia is liable under paragraph (1), the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to civilian service performed (by the former employee of the government of the District of Columbia or by the deceased individual referred to under section 8906 (g)(3) of title 5, United States Code, as the case may be) during the period beginning on January 1, 1975, through September 30, 1993, as estimated by the Office of Personnel Management.

Subtitle B—Postal Service

SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

Subtitle C—Miscellaneous

SEC. 10201. FEDERAL EMPLOYEES' SURVIVOR ANNUITY IMPROVEMENTS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) REDUCTION FOR SPOUSAL ANNUITY.—Section 8339(j) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in the second sentence, by striking out ", within such 2-year period,"; and

(ii) by striking out the fourth sentence and inserting in lieu thereof the following: "The Office shall, by regulation, provide for payment of the deposit required under this paragraph by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under this paragraph, except that the total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this paragraph, paragraph (5), or subsection (k)(2) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction, which shall be effective on the same date as the election under this paragraph, shall be permanent and unaffected by any future termination of the entitlement of the former spouse. Such reduction shall be independent of and in addition to the reduction required under the first sentence of this paragraph."; and

(B) in paragraph (5)(C)—

(i) in clause (ii), by striking out ", within 2 years after the date of the remarriage or, if later, the death or remarriage of the former spouse (or of the last such surviving former spouse),"; and

(ii) by amending clause (iii) to read as follows:

"(iii) The Office shall, by regulation, provide for payment of the deposit required under clause (ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under clause (ii), except that total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this paragraph or paragraph (3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this clause, which shall be effective on the same date as the election under clause (i), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under clause (i).".

(2) REDUCTION RELATING TO FORMER SPOUSE.—Section 8339(k)(2) of title 5, United States Code, is amended—

(A) in subparagraph (B)(ii), by striking out "Within 2 years after the date of the marriage, the" and inserting in lieu thereof "The"; and

(B) by amending subparagraph (C) to read as follows:

"(C) The Office shall, by regulation, provide for payment of the deposit required under subparagraph (B)(ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under subparagraph (B)(ii), except that total reductions in the annuity of an employee or Member to pay deposits required by this subsection or subsection (j)(3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this subparagraph, which shall be effective on the same date as the election under subparagraph (A), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under subparagraph (A).".

(3) DEPOSITS.—Section 8334(h) of title 5, United States Code, is amended by striking out "and by section 8339(j)(5)(C) and the last sentence of section 8339(k)(2) of this title".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8418 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out ", before the expiration of the 2-year period involved,"; and

(2) by amending subsection (b) to read as follows:

"(b) The Office shall, by regulation, provide for payment of the deposit required under subsection (a) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under subsection (a), except that the total reductions in the annuity of an employee or Member to pay deposits required by this section shall not exceed 25 percent of the annuity computed under section 8415 or section 8452, including adjustments under section 8462. The reduction required by this subsection, which shall be effective at the same time as the election under section 8416 (b) and (c) or section 8417(b), shall be permanent and unaffected by any future termination of the marriage or the entitlement of the former spouse. Such reduction shall be independent of

and in addition to the reduction required under section 8416 (b) and (c) or section 8417(b).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning 30 days after the date of the enactment of this Act and shall apply to all deposits required under section 8339(j) (3) and (5), 8339(k)(2), or 8418 of title 5, United States Code, on which no payment has been made prior to such effective date.

(2) PARTIAL DEPOSIT.—For any deposit required under section 8339(j) (3) and (5), 8339(k)(2), or 8418 of title 5, United States Code, or section 4 (b) and (c) of the Civil Service Retirement Spouse Equity Act of 1984 that has been partially, but not fully, paid before the effective date of this Act, the Office shall by regulation provide for determining the remaining portion of the deposit and for payment of the remaining portion of the deposit by a prospective reduction in the annuity of the employee or Member. The reduction shall be similar to the reductions provided pursuant to the amendments made under this section.

TITLE XI—JUDICIARY

SEC. 11001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1998";

(2) in subsection (b)(2) by striking "1995" and inserting "1998"; and

(3) in subsection (c)—

(A) by striking "through 1995" and inserting "through 1998"; and

(B) by adding at the end the following:

"(6) $111,000,000 in fiscal year 1996.

"(7) $115,000,000 in fiscal year 1997.

"(8) $119,000,000 in fiscal year 1998.".

TITLE XII—COMMITTEE ON LABOR AND HUMAN RESOURCES

Subtitle A—Student Loan Provisions

SEC. 12001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1993".

(b) REFERENCES.—References in this subtitle to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

CHAPTER 1—FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 12011. FEDERAL DIRECT STUDENT LOAN PROGRAM.

Part D of title IV (20 U.S.C. 1087a) is amended to read as follows:

"PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

"SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.

"(a) PURPOSE.—It is the purpose of this part—

"(1) to simplify the delivery of student loans to borrowers and eliminate borrower confusion;

"(2) to provide a variety of repayment plans, including income contingent repayment, to borrowers so that borrowers have flexibility in managing their student loan repayment obligations, and so that those obligations do not foreclose careers in community or public service for those borrowers;

"(3) to replace, through an orderly transition, the Federal Family Education Loan Program under part B of this title with the Federal Direct Student Loan Program under this part;

"(4) to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program under part B of this title through the use of a direct student loan program; and

"(5) to create a more streamlined student loan program that can be managed more effectively at the Federal level.

"(b) PROGRAM AUTHORITY.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students in attendance at participating institutions of higher education selected by the Secretary (and the eligible parents of such students), to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

"SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

"(a) IN GENERAL.—The Secretary shall provide funds for student and parent loans under this part—

"(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan program under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part; or

"(2) through an alternative originator designated by the Secretary, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans.

"(b) FEES FOR ORIGINATION SERVICES.—

"(1) FEES FOR INSTITUTIONS.—The Secretary shall pay fees to institutions of higher education or consortia thereof having agreements under section 454(b), in an amount established by the Secretary, to assist in meeting the costs of loan origination. Such fees—

"(A) shall be paid by the Secretary based on all the loans made under this part to a particular borrower in the same academic year;

"(B) shall be subject to a sliding scale that decreases the amount of such fees as the number of borrowers increases; and

"(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part to such borrower in the same academic year; and

"(ii) for succeeding academic years, the Secretary shall establish such average fee pursuant to regulations.

"(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of loans made under this part in an amount established by the Secretary in accordance with the terms of the contract described in section 456(b) between the Secretary and each such alternative originator.

"(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a right to participate in the program authorized by this part, originate loans, or perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part nor limit the borrower's contractual right against the United States to receive any loan for which the student (or parent) is eligible.

"(d) DELIVERY OF LOAN FUNDS.—Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of basic grants under subpart 1 of part A.

"SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

"(a) PHASE-IN OF PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

"(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan program under this part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary whall enter into agreements under subsections (a) and (b) of section 454 for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

"(A) For academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year.

"(B) For academic year 1995–1996, loans made under this part shall represent 30 percent of the new student loan volume for such year.

"(C) For academic year 1996–1997, loans made under this part shall represent 40 percent of the new student loan volume for such year.

"(D) For academic year 1997–1998 and fiscal year 1998, loans made under this part shall represent 50 percent of the new student loan volume for such years.

"(3) NEW STUDENT LOAN VOLUME.—For the purpose of this part, the term 'new student loan volume' means the estimated sum of all loans that will be made, insured or guaranteed under this part and part B in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

"(4) CASH MANAGEMENT.—The requirements of sections 3335, 6501, and 6503 of title 31, United States Code (the Cash Management Improvement Act of 1990) shall apply to the program under this part only to the extent specified in a schedule established by the Secretaries of Education and the Treasury, except that such schedule shall provide for the application of all such requirements not later than July 1, 1998.

"(b) SELECTION CRITERIA.—

"(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

"(2) SELECTION CRITERIA.—The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe, by, to the extent possible—

"(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, percentage of students borrowing under part B, geographic location, annual loan volume, default experience and composition of the student body; and

"(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

"(B) if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.

"(c) SELECTION CRITERIA FOR ORIGINATION.—

"(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

"(A) has an agreement under subsection 454(a);

"(B) desires to originate loans under this part; and

"(C) meets the criteria described in paragraph (2).

"(2) TRANSITION SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

"(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 462(g) for the most recent fiscal year for which data are available;

"(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E;

"(C) is not overdue on program or financial reports or audits required under this title;

"(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

"(E) in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this title;

"(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

"(G) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

"(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

"(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSACTION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 458(a)(2).

"(d) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education with agreements under section 454(a) may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Such institutions shall each be required to meet the requirements of subsection (c) with respect to loan origination.

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

"(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

"(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

"(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

"(B) estimate the need of each such student as required by part F of this title for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 428H (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 428B (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

"(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

"(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G (other than subsection (b)(1) of such section); and

"(E) provide timely and accurate information—

"(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

"(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

"(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

"(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

"(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this title at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part;

"(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

"(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

"(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

"(b) ORIGINATION.—An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

"(1) supplement the agreement entered into in accordance with subsection (a);

"(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution or consortium;

"(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

"(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

"(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

"SEC. 455. TERMS AND CONDITIONS OF LOANS.

"(a) IN GENERAL.—

"(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits as loans made to borrowers under sections 428, 428B, and 428H of this title.

"(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

"(A) section 428 shall be known as 'Federal Direct Stafford Loans';

"(B) section 428B shall be known as 'Federal Direct PLUS Loans'; and

"(C) section 428H shall be known as 'Federal Direct Unsubsidized Stafford Loans'.

"(b) INTEREST RATE.—

"(1) RATES FOR FDSL AND FDUSL.—(A) For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

"(B)(i) Notwithstanding the provisions of subparagraph (A), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest for interest which accrues—

"(I) prior to the beginning of the repayment period of the loan; or

"(II) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under clause (ii).

"(ii) For purposes of clause (i) the rate determined under this clause shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(II) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

"(2) RATES FOR FDPLUS.—For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

"(B) 3.1 percent,

except that such rate shall not exceed 9 percent.

"(3) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(c) ORIGINATION FEE.—The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of the loan.

"(d) REPAYMENT PLANS.—

"(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrowers loans under this part. The borrower may choose—

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time;

"(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

"(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time, not to exceed 20 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

"(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

"(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

"(4) ALTERNATIVE REPAYMENT PLANS.—The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

"(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

"(A) pay all reasonable collection costs associated with such loan; and

"(B) repay the loan pursuant to an income contingent repayment plan.

"(e) INCOME CONTINGENT REPAYMENT.—

"(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Return and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

"(2) REPAYMENT BASED ON ADJUSTED GROSS INCOME.—A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

"(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

"(4) REPAYMENT SCHEDULES.—Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

"(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

"(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

"(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

"(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

"(f) DEFERMENT.—

"(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

"(A) shall not accrue, in the case of a Federal Direct Stafford Loan or a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

"(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan other than loans described in subparagraph (A).

"(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

"(A) during which the borrower—

"(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 435) the borrower is attending; or

"(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

"(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship, regardless of the reason for such hardship.

"(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in section 428C(a)(4) and section 428C(d)(1)(C) only under such terms and conditions as the Secretary shall establish pursuant to regulations promulgated under this part. Loans made under this subsection shall be known as 'Federal Direct Consolidation Loans'.

"(h) BORROWER DEFENSES.—Notwithstanding any other provision of law, the Secretary shall specify in regulations (except as authorized under section 458(a)), which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

"(i) OPTICALLY IMAGED DOCUMENTS.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted pursuant to section 484A(c), with respect to a loan made under this part.

"(j) NONDISCHARGEABILITY IN BANKRUPTCY.—Notwithstanding any other provision of law, a loan made under this part shall not be dischargeable in any Federal or State bankruptcy proceeding.

"(k) LOAN APPLICATION AND PROMISSORY NOTE.—The common financial reporting form required in 483(a)(1) shall constitute the application for loans made under this part. The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

"(l) LOAN DISBURSEMENT.—

"(1) IN GENERAL.—Payments of loan proceeds to students under this part shall be made by crediting the student's account for tuition and

fees, and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account. Loan proceeds that remain after the application of the previous sentences shall be delivered to the borrower in accordance with section 427(a)(3).

"(2) PAYMENT PERIODS.—The Secretary shall establish periods for the payments described in paragraph (2) in a manner that is consistent with payment of basic grants under subpart 1 of part A.

"(m) FISCAL CONTROL AND FUND ACCOUNTABILITY.—

"(1) IN GENERAL.—(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under title IV.

"(B) An institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

"(2) PAYMENTS; REFUNDS; ENROLLMENT STATUS.—Payments, refunds and enrollment status shall be reconciled in a manner and schedule that is consistent with the manner and schedule set forth for the quarterly submission of a payment summary report required of institutions participating in the program assisted under subpart 1 of part A.

"(3) TRANSACTION HISTORIES.—All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of basic grants under subpart 1 of part A.

"(n) ENTITLEMENT PROVISION.—Except as provided in section 454(a)(1)(C), an eligible student in attendance at a participating institution (or a parent borrower) shall have a contractual right against the United States to receive any loan under this part for which such student (or parent) is eligible.

"SEC. 456. CONTRACTS.

"(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

"(1) IN GENERAL.—The Secretary may award 1 or more contracts for services and supplies described in subsection (b). The entities with which the Secretary may enter into such contracts shall include entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the servicing of loans under this part, the Secretary shall only enter into contracts with entities that have extensive experience and a demonstrated record in loan servicing and collection.

"(2) EXEMPTION.—The Secretary may award, through June 30, 1998, contracts under this section without regard to the requirements in section 303 of the Federal Property and Administrative Services Act of 1949, section 18 of the Office of Federal Procurement Policy Act, and section 8(e) of the Small Business Act, and the corresponding requirements of the Federal Acquisition Regulations, if the Secretary determines, on a case-by-case basis, that exemption from such requirements is in the public interest and necessary for the orderly transition from the loan programs under part B to the direct student loan program under this part.

"(3) APPLICATION OF REQUIREMENTS.—On and after July 1, 1998, all statutory and regulatory requirements described in paragraph (2) shall apply to the award of a contract under this section.

"(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into 1 or more contracts for—

"(1) the alternative origination of loans to students attending institutions with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

"(2) the servicing and collection of loans made under this part;

"(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part;

"(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan program under this part; and

"(5) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

"SEC. 457. PLAN FOR IRS PARTICIPATION AND OTHER REPAYMENT OPTIONS.

"(a) IN GENERAL.—The Secretaries of Education and the Treasury shall, within 6 months of the date of enactment of this part, submit a plan to the President that—

"(1) provides for—

"(A) repayment of loans made under this part through wage withholding by the Internal Revenue Service;

"(B) procedures for the resolution of disputes through the Secretary of Education; and

"(C) an alternate system of fees and penalties, which shall not include the seizure of real property, by the Internal Revenue Service for the nonpayment of amounts due; and

"(2) evaluates the feasibility of other wage-withholding repayment options for such loans.

"(b) PRESIDENTIAL DETERMINATION.—If the President determines that the implementation of 1 or more repayment options contained in the plan described in subsection (a) would further the purposes of this part, the Secretaries of Education and the Treasury shall be authorized to take such actions as are reasonable and necessary to implement such repayment options, including entering into an agreement pursuant to section 6306 of the Internal Revenue Code of 1986.

"(c) FUNDING.—The Secretary of Education may use such amounts as the Secretary of Education determines necessary from the funds made available under section 460 to implement the repayment options selected by the President under subsection (b) and shall make available to the Secretary of the Treasury such amounts from the funds made available under section 460 as the Secretaries determine to be necessary to implement the repayment options carried out by the Internal Revenue Service.

"SEC. 458. SECRETARIAL ACTIVITIES.

"(a) REGULATORY ACTIVITIES.—

"(1) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, that the Secretary, in consultation with members of the higher education community, determine are reasonable and necessary to the successful implementation of the direct student loan program under this part in academic year 1994–1995. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

"(2) NEGOTIATED RULEMAKING.—Beginning with academic year 1995–1996, all standards, criteria, procedures and regulations implementing this part shall be subject to negotiated rulemaking, including all such standards, criteria, procedures and regulations promulgated from the date of enactment of this part.

"(b) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the direct loan program under this part in academic year 1994–1995.

"(c) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS AND CONTROL GROUP.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the direct loan program under this part in academic year 1994–1995.

"SEC. 459. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1994, and each July 1 for the 4 succeeding years an annual report describing the progress and status of the direct loan program.

"(b) RESEARCH, DEMONSTRATION, AND EVALUATION.—The Secretary may use a portion of the funds made available pursuant to section 460 for research on, or the demonstration or evaluation of, any aspects of the program authorized by this part, including flexible repayment plans.

"(c) GAO INTERIM FINAL REPORT.—The Comptroller General shall submit to the Congress not later than January 1, 1997, an interim final report evaluating the experience of the Department of Education, the participating institutions of higher education, students, and parents with respect to the direct student loan program. The report shall include—

"(1) the administrative costs, including costs per loan, incurred by participating institutions of higher education in administering the direct student loan program;

"(2) the administrative costs, including costs per loan, incurred by the Department of Education and its contractors in carrying out its responsibilities, including the costs of origination, data systems, servicing, and collection;

"(3) an evaluation of the effectiveness of the direct student loan program in providing services to students and parents, including loan application, loan origination, student financial aid packaging, tracking of student status, responsiveness to student inquiries and processing of deferments, forbearances, and repayments;

"(4) the frequency and cost of borrower delinquency and default under the direct student loan program and losses incurred by institutions of higher education and servicers, including losses caused by improper origination or servicing of loans;

"(5) the timeliness of capital availability to institutions of higher education and of loans to students and parents and the cost of loan capital;

"(6) an evaluation of the effectiveness of the income contingent repayment option;

"(7) a comparison of the experience of institutions of higher education, students, and parents participating in direct student loan program with the experience of institutions, students, and parents in the control group described in subsection (e) with respect to the subjects indicated in paragraphs (1) through (6) of this subsection;

"(8) an evaluation of the administrative performance of the Department;

"(9) an analysis of the reasons institutions selected by the Secretary to participate in the direct student loan program chose not to participate and the reasons institutions withdrew or were terminated from such program;

"(10) an analysis of the experience of borrowers with loans under both this part and part B and recommendations for the most effective repayment procedures for such borrowers;

"(11) a comparison of the cost of loan capital for loans for the direct student loan program with the cost of loan capital for the comparable programs in part B of this title;

"(12) an analysis, where practicable, of the experience of institutions which participate as part of a consortia; and

"(13) recommendations for modifications, continuation, expansion, suspension, or termination of the direct student loan program or replacement of all or some of the programs authorized by part B.

"(d) GAO FINAL REPORT.—The Comptroller General shall submit to the Congress not later than May 1, 1998, a final report evaluating the experience of the Department of Education, the participating institutions of higher education, and students with respect to the direct student loan program. The report shall include the same matters provided for in subsection (c) of this section.

"(e) CONTROL GROUP.—To assist the Comptroller General in preparing the reports required by subsections (c) and (d) of this section, the Secretary shall select a control group of institutions of higher education, which represent a cross-section of all institutions of higher education participating in part B of this title and which is comparable to the cross-section of institutions of higher education selected for participating in the direct student loan program. The Secretary shall select the control groups in the same manner that the institutions of higher education are selected to participate in the direct student loan program.

"(f) TREATMENT OF COSTS.—In reporting with respect to costs in the reports required by subsections (c) and (d) of this section, the Comptroller General shall report separately the nonrecurrent costs such as start-up costs associated with the direct student loan program, the administrative costs incurred by institutions of higher education in providing information to enable the Comptroller General to prepare the reports required by subsections (c) and (d) of this section and the normal costs of operating the direct student loan program.

"SEC. 460. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) IN GENERAL.—In each fiscal year beginning with fiscal year 1994, there shall be available to the Secretary of Education from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan program under this part and transition support for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed $20,000,000 in fiscal year 1994, $70,000,000 in fiscal year 1995, $170,000,000 in fiscal year 1996, $305,000,000 in fiscal year 1997, and $480,000,000 in fiscal year 1998. If in any fiscal year, the Secretary determines that additional funds for administrative expenses are needed as a result of such transition, or the expansion of the direct student loan program under this part, the Secretary is authorized to use funds available under this section for any succeeding fiscal year for such expenses, except that the total expenditures by the Secretary shall not exceed $1,045,000,000 in fiscal years 1994 through 1998.

"(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

"(c) BUDGET JUSTIFICATION.—The Secretary shall include in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

"(d) NOTIFICATION.—In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) to draw funds for administrative expenses from a future year's funds, the Secretary shall immediately notify the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.

"SEC. 460A. NATIONAL STUDENT LOAN REFORM COMMISSION.

"(a) ESTABLISHMENT.—There is hereby established a bipartisan commission to be known as the National Student Loan Reform Commission (hereafter in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Commission shall be composed of 15 members appointed by the President with the advice and consent of the Senate who are representative of a broad combination of types of institutions of higher education, of whom at least 8 members shall be financial aid administrators.

"(2) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

"(4) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(6) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

"(c) DUTIES.—The Commission shall—

"(1) advise the President and the Congress on the operation of the Federal Direct Student Loan Program and the Federal Family Education Loan Program;

"(2) evaluate and report to the Congress regarding such programs on not less than an annual basis; and

"(3) not later than January 1, 1997, report to the President and the Congress with final recommendations on the advisability of replacing the Federal Family Education Loan Program with direct lending.

"(d) POWERS OF THE COMMISSION.—

"(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

"(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

"(e) COMMISSION PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(3) STAFF.—

"(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

"(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(6) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

"(7) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other organization the Commission determines appropriate) for which payment shall be made in advance or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairman of the Commission and the Administrator of General Services (or head of another organization the Commission determines appropriate).

"(f) TERMINATION OF THE COMMISSION.—The Commission shall terminate 18 months after the date on which the Commission submits its report under subsection (c)(3).

"(g) FUNDS FOR EXPENSES OF THE COMMISSION.—In each fiscal year beginning with fiscal year 1994, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for the costs of activities assisted under this section, not to exceed $2,000,000 in each of the fiscal years 1994, 1995, 1996, 1997 and 1998.".

CHAPTER 2—STUDENT LOAN SAVINGS

SEC. 12021. SECRETARY'S EQUITABLE SHARE.

Section 428(c)(6)(A)(ii) of the Act (20 U.S.C. 1078(c)(6)(A)(ii)) is amended by striking "30 percent" and inserting "27 percent".

SEC. 12022. INTEREST RATES.

Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(1) in subsection (c)(4), by adding at the end the following new subparagraph:

"(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 428B for which the first disbursement is made on or after July 1, 1994—

"(i) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

"(ii) the interest rate shall not exceed 9 percent.";

(2) by redesignating subsections (f), (g) and (h) as subsections (g), (h) and (j), respectively;

(3) by adding after subsection (e) the following new subsection:

"(f) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1994.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d) and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 428B and 428C) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

"(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination."; and

(4) by inserting after subsection (h) (as redesignated in paragraph (2)) the following new subsection:

"(i) IN-SCHOOL AND GRACE PERIOD INTEREST RATES.—

"(1) APPLICABLE RATE.—Notwithstanding any other provision of this section, with respect to any loan for which the first disbursement is made on or after October 1, 1993, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under paragraph (2).

"(2) METHOD OF CALCULATION.—For purposes of paragraph (1) the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.".

SEC. 12023. LENDER AND STUDENT LOAN FEES.

Section 438 of the Act (20 U.S.C. 1087-1) is amended—

(1) in the heading of subsection (c) by inserting "FROM STUDENTS" after "ORIGINATION FEES";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "428B,";

(ii) by inserting ", and part D" after "439(o)"; and

(iii) by striking "5 percent" and inserting "3.0 percent";

(B) in paragraph (6), by striking "5 percent" and inserting "3.0 percent";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection:

"(d) LOAN FEES FROM LENDERS.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF LOAN FEES.—With respect to any loan under this part (other than loans made under sections 428B, 428C and 439(o)) for which a note or other written evidence of the loan was sent or delivered to the borrower for signing on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to .50 percent of the principal amount of the loan.

"(3) PLUS, CONSOLIDATION, SLMA LOANS.—With respect to any loans made under section 428B, 428C, and 439 on or after October 1, 1993, each eligible lender under this part shall pay to the Secretary a loan fee of .50 percent of the principal amount of the loan.

"(4) DISTRIBUTION OF LOAN FEES.—The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 431.".

SEC. 12024. OFFSET FEE.

Subsection (h) of section 439 of the Act (20 U.S.C. 1087-2(h)) is amended by adding at the end the following new paragraph:

"(6) OFFSET FEE.—(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part which the Association holds on or after the date of enactment of this paragraph.

"(B) The Secretary shall deposit all fees collected pursuant to subparagraph (A) into the insurance fund established in section 431.".

SEC. 12025. ELIMINATION OF TAX EXEMPT FLOOR.

Section 438(b)(2)(B) of the Act (20 U.S.C. 1087-1(b)(2)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under the Internal Revenue Code of 1986, shall be 85 percent of the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.".

SEC. 12026. REDUCTION IN INTEREST RATE FOR CONSOLIDATION LOANS; REBATE FEE.

(a) AMENDMENT.—Section 428C of the Act (20 U.S.C. 1078-3) is amended—

(1) in paragraph (1) of subsection (c)—

(A) in subparagraph (A), by striking "or (C)";

(B) by amending subparagraph (B) to read as follows:

"(B) A consolidation loan made on or after October 1, 1993, shall bear interest on the unpaid principal balance of the loan, during any 12-month period beginning on July 1 and ending on June 30, determined on the preceding June 1, which interest shall be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.10 percent,

except that such rate shall not exceed 9 percent."; and

(C) by striking subparagraph (C); and

(2) by adding at the end the following new subsection:

"(f) INTEREST PAYMENT REBATE FEE.—

"(1) IN GENERAL.—Each holder of a consolidation loan under this section shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 0.70 percent of the principal plus accrued unpaid interest on such loan.

"(2) DEPOSIT.—The Secretary shall deposit all fees collected pursuant to subsection (a) into the insurance fund established in section 431.".

(b) ENFORCEMENT.—Subsection (d) of section 435 of the Act (20 U.S.C. 1085(d)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "(5)" and inserting "(6)"; and

(2) by adding at the end the following new paragraph:

"(6) REBATE FEE REQUIREMENT.—To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 428C(f).".

SEC. 12027. INSURANCE PREMIUM.

(a) INSURANCE PREMIUM.—Section 428(b)(1)(H) of the Act (20 U.S.C. 1078(b)(1)(H)) is amended by striking "3 percent" and inserting "1 percent".

(b) REINSURANCE FEES.—Section 428(c) of the Act is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraph (10) as paragraph (9).

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 1994.

SEC. 12028. LOAN TRANSFER FEE.

Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide that, if a lender or holder, on or after October 1, 1993, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.25 percent the principal and accrued unpaid interest of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to—

"(i) a merger or other consolidation transaction; or

"(ii) a sale or other transfer of all or any substantial portion of such lender's or holder's business or student lending business.".

SEC. 12029. RISK SHARING.

(a) GUARANTY AGENCY REINSURANCE PERCENTAGE.—Section 428(c)(1) of the Act (20 U.S.C. 1078(c)(1)) is amended—

(1) in subparagraph (A), by striking "100 percent" and inserting "98 percent";

(2) in subparagraph (B)(i), by striking "90 percent" and inserting "88 percent";

(3) in subparagraph (B)(ii), by striking "80 percent" and inserting "78 percent"; and

(4) by adding at the end the following new subparagraphs:

"(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender of last resort program, the Secretary shall apply the provisions of—

"(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

"(ii) subparagraph (B)(i) by substituting '100 percent' for '88 percent'; and

"(iii) subparagraph (B)(ii) by substituting '100 percent' for '78 percent'.

"(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

"(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

"(ii) subparagraph (B)(i) by substituting '90 percent' for '88 percent'; and

"(iii) subparagraph (B)(ii) by substituting '80 percent' for '78 percent'.".

(b) RISK SHARING BY THE STUDENT LOAN MARKETING ASSOCIATION.—Section 428(b)(1)(G) of the Act (20 U.S.C. 1078(b)(1)(G)) is amended by inserting before the semicolon at the end thereof the following: ", except that for loans held by the Student Loan Marketing Association (other than loans made with advances to guaranty agencies pursuant to section 439(p)) such percentage shall be 95 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any loan made on or after October 1, 1993.

SEC. 12030. PLUS LOAN AMOUNTS AND DISBURSEMENTS.

(a) LOAN AMOUNTS.—

(1) AMENDMENT.—Section 428B(b) of the Act (20 U.S.C. 1078–2(b)) is amended to read as follows:

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraph (2), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $10,000.

"(2) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective for loans made on or after July 1, 1994.

(b) MULTIPLE DISBURSEMENT REQUIRED.—

(1) AMENDMENT.—The matter preceding paragraph (1) of section 428B(c) of the Act (20 U.S.C. 1078–2(c)) is amended by inserting "shall be disbursed in accordance with the requirements of section 428G and" after "under this section".

(2) CONFORMING AMENDMENTS.—Section 428G(e) of the Act (20 U.S.C. 1078–7(e) is amended—

(A) by striking "PLUS, CONSOLIDATION," and inserting "CONSOLIDATION"; and

(B) by striking "section 428B or 428C" and inserting "section 428C".

CHAPTER 3—CONFORMING AMENDMENTS

Subchapter A—Conforming Amendments to the Higher Education Act of 1965

SEC. 12041. PRESERVING LOAN ACCESS.

(a) PURPOSE.—It is the purpose of the amendments made by this section to provide the Secretary with flexible authority as needed to preserve access to student and parent loans under part B of title IV of the Act during the transition from the Federal Family Education Loan Program under such part to the Federal Direct Student Loan Program under part D of such title.

(b) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES.—

(1) AMENDMENT.—Section 428(j) of the Act (20 U.S.C. 1078(j)) is amended by adding at the end the following new paragraph:

"(4) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES DURING TRANSITION TO DIRECT LENDING.—(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title, the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

"(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.".

(2) CONFORMING AMENDMENT.—Section 422(c)(7) of the Act (20 U.S.C. 1072(c)(7)) is amended by striking all beginning with "to a guaranty agency" through the period and inserting "to a guaranty agency—

"(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title; or

"(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A);".

(c) LENDER REFERRAL SERVICES.—Section 428(e) of the Act (20 U.S.C. 1078(e)) is amended—

(1) in paragraph (1)—

(A) by amending the paragraph heading to read as follows: "IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—";

(B) by inserting the subparagraph designation "(A)" immediately before "The Secretary";

(C) by striking "in any State" and inserting "with which the Secretary has an agreement under subparagraph (B)"; and

(D) by adding at the end the following new subparagraph:

"(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

"(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "in a State" and inserting "with which the Secretary has an agreement under paragraph (1)(B)";

(B) by amending subparagraph (A) to read as follows:

"(A)(i) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (I) determines that loans are not available to all eligible students, and (II) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and";

(3) in paragraph (3), by striking "The" and inserting "From funds available for costs of transition under section 460 of the Act, the"; and

(4) by striking paragraph (5).

(d) STUDENT LOAN MARKETING ASSOCIATION.—Section 439(q) of the Act (20 U.S.C. 1087–2(q)) is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence, by striking "the Association or its designated agent may begin making loans" and inserting "the Association or its designated agent shall, not later than July 1, 1994, begin making loans to such eligible borrowers"; and

(B) by striking the second sentence;

(2) in paragraph (2)(A), by striking "the Association or its designated agent may" and inserting "the Association or its designated agent shall, not later than July 1, 1994,"; and

(3) in paragraph (3), by striking all beginning with "that—" through the period at the end of subparagraph (B) and inserting "that the conditions that caused the implementation of this subsection have ceased to exist.".

SEC. 12042. GUARANTY AGENCY RESERVES.

Section 422 of the Act (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(g) PRESERVATION OF GUARANTY AGENCY RESERVES.—

"(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that the Secretary may—

"(A) direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

"(B) direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or

under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets; and

"(C) direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets.

"(2) TERMINATION PROVISIONS IN CONTRACTS.—(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subsection shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

"(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

"(3) PENALTIES.—Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 490 of this Act.".

SEC. 12043. TERMS OF LOANS.

(a) AMENDMENT.—Section 428 of the Act (20 U.S.C. 1078) is amended—

(1) in subsection (b)(1)(D), by striking "be subject to" through the semicolon and inserting "be subject to income contingent repayment in accordance with subsection (m);"; and

(2) in subsection (m)—

(A) by amending paragraph (1) to read as follows:

"(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary may require any borrower who has defaulted on a loan made under this part that is assigned to the Secretary under subsection (c)(8) to repay that loan under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this title."; and

(B) by striking paragraphs (2), (3), and (4) and inserting the following new paragraph:

"(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made in accordance with section 428 for periods of instruction beginning on or after July 1, 1993, or made on or after July 1, 1993, in the case of loans made in accordance with section 428B or 428C of the Act.

SEC. 12044. ASSIGNMENT OF LOANS.

Section 428(c)(8) of the Act (20 U.S.C. 1078(c)(8)) is amended—

(1) in the first sentence, by inserting the subparagraph designation "(A)" before "If the";

(2) by striking the second and third sentences; and

(3) by adding at the end the following new subparagraph:

"(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.".

SEC. 12045. TERMINATION OF GUARANTY AGENCY AGREEMENTS; ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE SECRETARY.

Section 428(c)(9) of the Act (as redesignated by section 12027(b)(2)) (20 U.S.C. 1078(c)(10)) is amended—

(1) in subparagraph (C), by inserting ", as appropriate," after "the Secretary shall require";

(2) in subparagraph (D)—

(A) by inserting the clause designation "(i)" before "Each";

(B) by striking "Each" and inserting "If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a";

(C) by adding at the end the following new clause:

"(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.";

(3) in subparagraph (E)—

(A) in clause (ii), by striking "or" after the semicolon;

(B) in clause (iii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

"(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

"(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.";

(4) in subparagraph (F)—

(A) in the matter preceding clause (i), by striking "Except as provided in subparagraph (G), if" and inserting "If";

(B) by amending clause (v) to read as follows:

"(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

"(I) meet the immediate cash needs of the guaranty agency;

"(II) ensure the uninterrupted payment of claims; or

"(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j)(4);";

(C) in clause (vi)—

(i) by striking "and to avoid" and inserting ", to avoid";

(ii) by striking the period and inserting a comma and "and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title."; and

(iii) by redesignating such clause as clause (vii); and

(D) by inserting after clause (v) the following new clause:

"(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or";

(5) by striking subparagraph (G);

(6) by redesignating subparagraphs (H), (I), and (J) as subparagraphs (I), (J), and (K), respectively;

(7) by inserting after subparagraph (F) the following new subparagraphs:

"(G) Notwithstanding any other provision of law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

"(i) such guaranty agency may not file for bankruptcy;

"(ii) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

"(iii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subparagraph shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

"(iv) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency;

"(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs."; and

(8) in subparagraph (K) (as redesignated by paragraph (5)), by striking all beginning with "system, together" through the period and inserting "system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title.".

SEC. 12046. CONSOLIDATION LOANS.

(a) AMENDMENT.—Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in subsection (a)(3)(A), by striking all beginning with "(A)" through the period at the end of clause (ii) and inserting "(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by inserting "with income-sensitive repayment terms" after "obtain a consolidation loan";

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

"(E) that the lender shall offer an income-sensitive repayment schedule, established by the

lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and";

(B) in paragraph (4), by amending subparagraph (C) to read as follows:

"(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

"(ii) provides that interest shall accrue and be paid—

"(I) by the Secretary, in the case of a consolidation loan that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428: or

"(II) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I);"; and

(C) by adding at the end the following new paragraph:

"(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), the Secretary shall offer any such borrower who applies for it, a direct consolidation loan to be repaid pursuant to income contingent repayment under part D of this title or pursuant to any other repayment provision under this section, except that the Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans."; and

(3) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "income sensitive repayment schedules. Such repayment terms" and inserting "income sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms";

(II) by redesignating clauses (i), (ii), (iii), (iv), and (v) as clauses (ii), (iii), (iv), (v), and (vi), respectively; and

(III) by inserting before clause (ii) (as redesignated by subclause (II)) the following new clause:

"(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(B) in paragraph (3)(A), by inserting "except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5)," before "the lender".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made on or after July 1, 1994.

SEC. 12047. AUTHORITY TO USE OPTICALLY IMAGED DOCUMENTS.

(a) GENERAL AUTHORITY.—Section 484A of the Act (20 U.S.C. 1091a) is amended—

*(1) in the section heading, by inserting "**; OPTICALLY IMAGED DOCUMENTS**" after "**LIMITATIONS**"; and*

(2) by adding at the end the following new subsection:

"(c) OPTICALLY IMAGED DOCUMENTS.—

"(1) PURPOSE.—It is the purpose of this subsection to—

"(A) allow the Secretary to use optical imaging technology to store and retrieve documents and records, including promissory notes and repayment agreements, required for the administration of the programs authorized under part D of this title, or for the administration of loans made under part B of this title that have been assigned to the Secretary;

"(B) permit the Secretary to destroy originals of such documents and records, including promissory notes and repayment agreements, after such documents and records have been optically imaged, thereby achieving significant savings in storage and retrieval costs; and

"(C) ensure that the Secretary may introduce as evidence in any proceeding with respect to the programs or loans described in subparagraph (A) optically imaged documents and records, including promissory notes and repayment agreements.

"(2) EVIDENCE.—Notwithstanding any other provision of law, an optically imaged copy of any document or record, including a promissory note or repayment agreement, may be introduced as evidence in any proceeding with respect to the programs or loans described in paragraph (1)(A) in any Federal or State court, or other tribunal, and such optically imaged copy shall be admissible in any court or tribunal of the United States or any State as if such copy were the original document or record and have the same force and effect as the original.

"(3) CONSTRUCTION.—(A) Nothing in this subsection shall be interpreted to preclude the admissibility of a duplicate of a document or record required for the administration of the programs or loans described in paragraph (1)(A) made by a technology other than optical imaging consistent with the Federal Rules of Evidence and section 1732 of title 28, United States Code, or applicable State law.

"(B) Nothing in this subsection shall be interpreted to preclude the admissibility of an optically imaged copy of any document or record in a proceeding outside the scope of this subsection consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.".

(b) OPTICALLY IMAGED DOCUMENTS.—Section 432 of the Act (20 U.S.C. 1082) is amended by adding at the end the following new subsection:

"(q) OPTICALLY IMAGED DOCUMENTS.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted by section 484A(c), with respect to a loan that was made under this part and has been assigned to the Secretary.".

(c) CONFORMING AMENDMENT.—Section 487 of the Act (20 U.S.C. 1094) is amended by adding at the end the following new subsection:

"(f) USE OF OPTICALLY IMAGED DOCUMENTS.—In any proceeding with respect to a program or activity under part D of this title, or with respect to a loan made under part B of this title that has been assigned to the Secretary, records maintained in accordance with section 484A may be used as provided in that section.".

SEC. 12048. CONSOLIDATION OF PROGRAMS.

(a) IN GENERAL.—Section 428H of the Act (20 U.S.C. 1078–9) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting "(including graduate and professional students as defined in regulations promulgated by the Secretary)" after "484";

(2) in subsection (d), by inserting ", except that—

"(1) the maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under the Federal Direct PLUS Loan Program) may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, shall be as follows:

"(A) In the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study, the amount determined in accordance with section 428(b)(1), plus—

"(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

"(B) In the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study, the amount determined in accordance with section 428(b)(1), plus—

"(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

"(C) In the case of such a student who is a graduate or professional student attending an eligible institution, the amount determined in accordance with section 428(b)(1), plus $10,000; and

"(2) the maximum aggregate amount of such loans such student may borrow shall be adjusted to reflect the increased annual limits described in paragraph (1)" before the period;

(3) in subsection (e), by adding at the end the following new paragraphs:

"(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually; or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower."; and

(4) by adding at the end the following new subsection:

"(h) REFINANCING.—

"(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by such lender which are made under this section to a borrower, including loans which were made under sections 428A and 428B as such sections were in effect prior to the date of enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans rounded to the nearest whole percent. The extension of any repayment period of an included

loan pursuant to this paragraph shall be reported (if required by such loan) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

"(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under sections 428A and 428B as such sections were in effect prior to the date of enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

"(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

"(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

"(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (e)(5)(B));

"(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

"(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

"(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

"(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1993, in the case of loans made before the date of enactment of this paragraph, notify the borrower of such loan—

"(A) of the refinancing options for which the borrower is eligible under this subsection;

"(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

"(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.".

(b) REPEAL.—

(1) REPEALER.—Section 428A of the Act is repealed.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on July 1, 1994.

(c) TERMS, CONDITIONS AND BENEFITS.—Notwithstanding the amendments made by this section, with respect to loans provided under sections 428A and 428H of the Higher Education Act of 1965 (as such sections existed on the date preceding the date of enactment of this Act) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.

SEC. 12049. ORIGINATION FEE; INSURANCE PREMIUM.

Section 428H of the Act (20 U.S.C. 1078–8) is amended—

(1) in subsection (f)—

(A) in the subsection heading, by striking "INSURANCE PREMIUM" and inserting "ORIGINATION FEE";

(B) in the heading of paragraph (1), by striking "/INSURANCE PREMIUM";

(C) in paragraph (1)—

(i) by striking "a combined origination fee and insurance premium in the amount of 6.5 percent" and inserting "an origination fee in the amount of 3.0 percent"; and

(ii) by striking the second sentence;

(D) in paragraph (2), by striking "combined fee and premium" and inserting "origination fee";

(E) in paragraph (3), by striking "combined origination fee and insurance premium" and inserting "origination fee";

(F) in paragraph (4)—

(i) in the heading, by striking "INSURANCE PREMIUM" and inserting "ORIGINATION FEE";

(ii) by striking "combined origination fee and insurance premiums" and inserting "origination fees"; and

(iii) by striking "and premiums to pay" and inserting "to pay"; and

(G) in paragraph (5)—

(i) in the heading, by inserting "ORIGINATION FEE AND" before "INSURANCE"; and

(ii) in the second sentence—

(I) by striking "6.5 percent insurance premium" and inserting "combined origination fee under this subsection and the insurance premium under subsection (h)"; and

(II) by inserting "origination fee and" before "insurance"; and

(2) by adding at the end the following new subsection:

"(h) INSURANCE PREMIUM.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) may charge a borrower under this section an insurance premium equal to not more than 1 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders."

SEC. 12050. DISBURSEMENTS FOR FIRST YEAR STUDENTS.

Section 428(G) of the Act (20 U.S.C. 1078–7) is amended—

(1) in the heading for subsection (b), by striking "AND ENDORSEMENT"; and

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking "other than a student described in paragraph (1)"; and

(ii) by striking "(2) OTHER STUDENTS.—".

Subchapter B—Amendments to Other Laws

SEC. 12055. DISCLOSURE OF TAX RETURN INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—Section 6103(a)(3) of the Internal Revenue Code of 1986 (hereafter referred to in this part as "the Code") is amended by striking "(l)(12)" and inserting "(l)(10), (12), or (13)".

(b) INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—Section 6103(l) of the Code is amended—

(1) in paragraph (10)(B), by striking "officers and employees of an agency receiving return information under subparagraph (A) shall use such information" and inserting "return information disclosed under subparagraph (A) may be used by officers and employees of an agency, and by officers, employees, and agents of the Department of Education,"; and

(2) at the end, by adding a new paragraph to read as follows:

"(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received a Federal loan under a student loan program and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer;

"(ii) the filing status of such taxpayer; and

"(iii) the adjusted gross income of such taxpayer (as defined in section 62).

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers, employees, and agents of the Department of Education only for the purposes of, and to the extent necessary in, establishing an appropriate income contingent repayment level under a student loan program.

"(C) DEFINITIONS.—For purposes of this paragraph, the term 'student loan program' means the program authorized under part D of title IV of the Higher Education Act of 1965 and includes loans under parts B and E of title IV the Higher Education Act of 1965 that are in default and have been assigned to the Department of Education.".

(c) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—Section 6103(m)(4) of the Code is amended—

*(1) in the heading, by inserting "**OWE AN OVERPAYMENT ON FEDERAL PELL GRANTS OR**" immediately after "**INDIVIDUALS WHO**";*

(2) in subparagraph (A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II); and

(B) by striking "of any taxpayer who has defaulted on a loan—" and inserting "of any taxpayer—

"(i) who owes an overpayment of a grant awarded to that taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

"(ii) who has defaulted on a loan—";

(3) in subparagraph (B)—

(A) in clause (i), by striking "under part B" and inserting "under part B or D"; and

(B) in clause (ii), by striking "under part E" and inserting "under subpart 1 of part A, part D, or part E";

(d) PROCEDURE AND RECORDKEEPING.—Section 6103(p) of the Code is amended—

(1) in paragraph (3)(A), by striking "(11), or (12), (m)" and inserting "(11), (12), or (13), (m)";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "(10), or (11)," and inserting "(10), (11), or (13),";

(B) in subparagraph (F)(ii), by striking "(11), or (12)," and inserting "(11), (12), or (13),"; and

(C) in the flush left material after subparagraph (F), by striking "under subsection (l)(12)(B)" and inserting "under paragraph (10), (12)(B), or (13) of subsection (l)".

(e) COLLECTION OF PAYMENTS.—(1) Subchapter A of chapter 64 of the Code is amended by adding at the end the following new section:

"SEC. 6306. COLLECTION OF PAYMENTS ON FEDERAL DIRECT STUDENT LOANS.

"Upon a determination by the President under section 457(b) of the Higher Education Act of 1965 concerning the implementation of a

plan for the repayment of Federal Direct Stafford Loans through wage withholding or other means by the Internal Revenue Service, the Secretary of the Treasury may enter into an agreement with the Secretary of Education to provide for the collection of payments on loans made pursuant to part D of title IV of such Act. The Secretary of the Treasury may assess and collect such payments as though they were additional income taxes due, and shall establish such procedures and conventions as are necessary under such agreement, including—

"(1) procedures for the resolution of disputes through the Secretary of Education;

"(2) an alternate system of fees and penalties, which system shall not include the seizure of real property by the Internal Revenue Service, for the nonpayment of amounts due; and

"(3) provisions related to withholding, payment of estimated tax and allocation of payments.".

(2) The table of sections for subchapter A of chapter 64 of the Code is amended by adding at the end the following new item:

"Sec. 6306. Collection of payments on Federal direct Stafford loans.".

(f) UNAUTHORIZED DISCLOSURE.—Section 7213(a)(2) of the Code is amended by striking "(10) or (12)" and inserting "(10), (12), or (13),".

(g) EFFECTIVE DATE.—The amendments made by this section shall be effective during the period beginning on the date of enactment of this Act and ending on December 30, 1998.

CHAPTER 4—COST SHARING BY STATES

SEC. 12061. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(n) STATE SHARE OF DEFAULT COSTS.—

"(1) IN GENERAL.—In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

"(A) the new loan volume attributable to all institutions in the State for the current fiscal year; multiplied by

"(B) the percentage specified in paragraph (2); multiplied by

"(C) the quotient of—

"(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

"(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

"(2) PERCENTAGE.—For purposes of paragraph (1)(B), the percentage used shall be—

"(A) 12.5 percent for fiscal year 1995;

"(B) 20 percent for fiscal year 1996; and

"(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

"(3) CALCULATION.—For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

"(A) the amount of the loans received for attendance by such institution's current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

"(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

"(4) FEE.—A State shall charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1994.

CHAPTER 5—GENERAL EFFECTIVE DATE

SEC. 12071. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall be effective on October 1, 1993.

Subtitle B—Public Health Service Act Provisions

SEC. 12101. HEALTH COVERAGE CLEARINGHOUSE.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—HEALTH COVERAGE CLEARINGHOUSE

"SEC. 2701. ESTABLISHMENT OF CLEARINGHOUSE.

"(a) IN GENERAL.—The Secretary shall establish and operate a Health Coverage Clearinghouse (in this title referred to as the 'Clearinghouse') for the purpose of identifying, for beneficiaries under a covered health program (as defined in subsection (c)), third parties (which may include a covered health program) which may be liable for payment for health care items and services furnished to such beneficiaries under such program.

"(b) DIRECTOR.—The Clearinghouse shall be headed by a Director (in this title referred to as the 'Director') appointed by the Secretary.

"(c) COVERED HEALTH PROGRAM DEFINED.—As used in this title, the term 'covered health program' means any of the following under which health care items or services are furnished to a beneficiary—

"(1) a migrant health center receiving assistance under section 329;

"(2) a community health center receiving assistance under section 330;

"(3) an entity receiving assistance under section 340;

"(4) an alcohol or drug treatment entity or mental health entity receiving assistance under title V or title XIX;

"(5) a family planning project described in section 1001;

"(6) an entity receiving assistance under title XXVI;

"(7) a black lung clinic authorized under this Act;

"(8) a clinic that treats sexually transmitted diseases and is authorized under section 318;

"(9) an entity receiving funds to provide primary health services to residents of public housing under section 340A;

"(10) a non-Federal entity authorized under the Indian Self-Determination Act;

"(11) a tuberculosis clinic receiving assistance under section 317(j)(2) or 317(k)(2); or

"(12) any other Federally funded program that provides payments for medical services provided to an individual which are or may be covered under a private health insurance policy.

"(d) OTHER DEFINITIONS.—As used in this title:

"(1) ADMINISTRATOR.—The term 'administrator' means, with respect to a covered health program described in paragraphs (1) through (12) of subsection (c), the individual responsible for the overall administration of the program under which an entity described in such paragraphs receives Federal funds.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the same meaning given the term 'employee welfare benefit plan' in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

"(3) QUALIFIED EMPLOYER.—The term 'qualified employer' has the same meaning given the term 'employer' in section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

"SEC. 2702. PROVISION OF INFORMATION

"(a) REQUEST FOR INFORMATION.—An administrator of a covered health program may request from the Director information concerning the employment and group health coverage of a program beneficiary, the beneficiary's spouse, and (if the beneficiary is a dependent child) the beneficiary's parents. The Director shall provide such information if the request—

"(1) is in such form and manner and at such a time as the Director may require, and

"(2) specifies the name and tax identification number of the beneficiary.

"(b) DATA MATCHING PROGRAM.—

"(1) REQUEST BY DIRECTOR.—The Director shall, at such intervals as the Director finds appropriate, transmit to the Secretary of the Treasury the names and tax identification numbers of beneficiaries with respect to whom a request has been made pursuant to subsection (a), and request that such Secretary disclose to the Secretary of Health and Human Services the following information:

"(A) Whether the beneficiary is married and, if so, the name of the spouse and such spouse's tax identification number.

"(B) If the beneficiary is a dependent child, the name of and tax identification numbers of the beneficiary's parents.

"(2) INFORMATION FROM SECRETARY.—The Secretary shall, upon written request from the Director, disclose to the Director, the following information:

"(A) For each individual who is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

"(i) the name and taxpayer identification number of the individual; and

"(ii) the name, address, and taxpayer identification number of the employer, and whether such employer is a qualified employer.

"(B) For each individual who is identified as married and whose spouse is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's spouse; and

"(ii) the name, address, and taxpayer identification number of the spouse's employer, and whether such employer is a qualified employer.

"(C) For each individual who is identified as a dependent child and whose parent is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's parent; and

"(ii) the name, address, and taxpayer identification number of the parent's employer, and whether such employer is a qualified employer.

"(3) INFORMATION FROM EMPLOYERS.—The Director shall—

"(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Secretary pursuant to paragraph (2), information concerning coverage of such individual (and of

the individual's spouse and dependent children) under the employer's group health plan, specifically the period and nature of the coverage, and the name, address, and identifying number of the plan, and

"(B) furnish the information received in response to such request with respect to an individual (or such individual's spouse or dependent children) to the administrator requesting such information pursuant to subsection (a).

Under no circumstances shall the information requested pertain in any way to the health status of the individual, spouse or dependent children, to the cost of such coverage, or to the beneficiary-specific limitations on such coverage.

"SEC. 2703. REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION.

"(a) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 2702(b)(3) within 90 days after receipt of such a request.

"(b) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—

"(1) IN GENERAL.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to section 2702(b)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $500 for each individual with respect to whom such a request is made.

"(2) ENFORCEMENT AUTHORITY.—In cases of failure to respond to the Director in accordance with subsection (a) to inquiries relating to requests pursuant to section 2702, the provisions of section 353(h)(3), regarding procedures for the imposition of civil money penalties developed by the Secretary, shall apply in the same manner as such provisions apply to penalties or proceedings under section 353.

"SEC. 2704. DATA BANK.

"(a) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this title. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

"(b) DISCLOSURE OF INFORMATION IN DATA BANK.—

"(1) IN GENERAL.—The Director is authorized (subject to paragraph (2)) to disclose any information in the data bank established pursuant to subsection (a) with respect to an individual (or an individual's spouse or parent)—

"(A) to the Secretary, administrators, employers, and insurers, to the extent necessary to assist such administrators;

"(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations or administrative or judicial law enforcement proceedings relating to a covered health program; and

"(C) for research or statistical purposes.

"(2) RESTRICTIONS ON DISCLOSURE.—Information in the data bank may be disclosed under this subsection only for purposes of, and to the extent necessary in, determining the extent to which an individual is covered under any group health plan.

"(c) USE OF CONTRACTORS.—The responsibilities of the Clearinghouse under this section may be carried out by contract.

"(d) FEES.—The Clearinghouse shall—

"(1) establish fees for services under this section designed to cover the full costs to the Clearinghouse of providing such services, and

"(2) require the payment of such fees to provide such services.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc-15) are redesignated as sections 2801 through 2814, respectively.

(2) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(c) ERISA AMENDMENT.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by adding at the end thereof the following new subsection:

"(g) COMPLIANCE WITH HEALTH COVERAGE CLEARINGHOUSE REQUIREMENTS.—In addition to providing the information required under this section, the administrator of each employee benefit plan shall comply with the requirements of section 2703(a) of the Public Health Service Act. The enforcement provisions of this Act shall apply to an administrator that fails to comply with this subsection in the same manner as such provisions otherwise apply to such administrators under this section.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on April 1, 1995.

SEC. 12102. PHYSICIAN OWNERSHIP STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study concerning—

(1) the desirability of establishing a Federal prohibition on the referral of a patient by a health care provider to an entity in which the provider has a financial interest or from which the provider receives a financial benefit for such referral; and

(2) different options with respect to the scope of any prohibition recommended under paragraph (1), including options for the application of rules defining prohibited activities that are similar to those implemented under title XVIII of the Social Security Act, and for the methods of enforcing such a prohibition.

(b) LIMITATION.—The study conducted under subsection (a) shall be restricted to determining the desirability of establishing a prohibition of the type described in such subsection with respect to patients for whom the health care services involved are not provided or paid for under a Federal or State program.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the President and the appropriate committees of Congress a report concerning the results of the study conducted under subsection (a).

SEC. 12103. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply with respect to any cost-of-living increase for any person described under paragraph (2) scheduled to take effect, during fiscal year 1994, 1995, or 1996, under section 8340(b) or 8462(b) of title 5, United States Code.

(2) ANNUITANTS.—The provisions of paragraph (1) shall apply to any annuitant who on the date preceding the date of retirement was a member of the National Health Service Corps.

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462 (b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 12104. PERMANENT ELIMINATION OF THE ALTERNATIVE FORM OF ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—A member of the National Health Service Corps who is covered under chapter 83 or 84 of title 5, United States Code, and has a life-threatening affliction or other critical medical condition may elect annuity benefits under section 8343a or 8420a of title 5, United States Code, as the case may be.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995, and shall apply with respect to any annuity commencing on or after that date.

SEC. 12105. FEDERAL TORT CLAIMS AMENDMENTS.

(a) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(b) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is further amended—

(1) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

(2) by adding at the end the following new paragraph:

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals benefits health center patients and general populations that could be served by the health center through community-wide intervention efforts within the communities served by such health center, and facilitates the provision of services to health center patients; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(c) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—

(1) IN GENERAL.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(2) FINDING.—Section 224 of such Act (42 U.S.C. 233) is amended by adding at the end thereof the following new subsection:

"(i) With respect to subsection (h), the finding of the Secretary that an entity meets all of the requirements under such subsection shall apply for the period specified by the Secretary, and shall be binding for all parties unless the Secretary reverses such finding for good cause shown at a later date.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

Subtitle C—Improved Immunization Delivery and Monitoring

SEC. 12201. SHORT TITLE, REFERENCES AND PURPOSE.

(a) SHORT TITLE.—This subtitle may be cited as the "Comprehensive Child Immunization Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) PURPOSE.—It is the purpose of this subtitle to ensure that children in the United States are appropriately immunized against vaccine preventable infectious diseases at the earliest appropriate age.

SEC. 12202. MONITORING OF CHILDHOOD IMMUNIZATIONS.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle 3—Improved Immunization Delivery and Monitoring Systems

"Part A—List of Vaccines and Administration

"SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dose of vaccine that should be administered in the immunizations.

"(D) Any contraindications regarding administration of the vaccine.

"(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

"(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

"(3) RULE OF CONSTRUCTION.—

"(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

"(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

"(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—This section does not supersede any State law or requirements with respect to receiving immunizations (including any such law relating to religious exemptions or other exemptions under such State laws).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of this section, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"Part B—State Registry System for Immunization Information

"SEC. 2145. PURPOSE.

"It is the purpose of this part to authorize the Secretary, in consultation with State public health officials, to establish State registry systems to monitor the immunization status of all children.

"SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.

"(a) IN GENERAL.—For the purpose described in section 2145, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2151. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2150 on behalf of the chief executive officer of such State.

"(b) DESIGN OF STATE REGISTRIES.—To carry out the purpose described in section 2145, a State registry established under this part shall be designed to—

"(1) provide accurate and up to date surveillance data regarding immunization rates at the State and local levels;

"(2) assist in identifying localities with inadequate immunization rates to target for necessary remedial assistance;

"(3) assist in the effective administration and management of immunization programs at State and local levels by providing data to guide immunization program efforts;

"(4) assist the State in providing and receiving information on the immunization status of children who move across geographic boundaries that are covered by different State or local registries; and

"(5) facilitate the linkage of vaccine dosage information to adverse events reported to the Centers for Disease Control and Prevention under section 2125(b) and disease outbreak patterns, for the purpose of monitoring vaccine safety and effectiveness.

"(c) ELIGIBLE USE OF FUNDS.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

"(1) collecting the data described in section 2147;

"(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

"(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2141;

"(4) notifying parents, as appropriate, if children have not received immunizations in accordance with such schedule;

"(5) coordinating and exchanging information with other State registries to allow the monitoring of the immunization status of children changing State of residence; and

"(6) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(d) REQUIREMENT REGARDING STATE LAW.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) The provisions of this part do not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2147. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2146(c)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c).

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved after the date of the implementation of the registry (in no event shall such date be later than October 1, 1996).

"(2) Demographic data on the child.

"(3) The name of one or both of the parents of the child. If the child has been given up for adoption, any information regarding the identity of the birth parent or parents of the child may not be entered into the registry, or if entered, shall be deleted.

"(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

"(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

"(1) The name, age, and address of the child.

"(2) The date on which the vaccine was administered to the child.

"(3) The name and business address of the health care provider that administered the vaccine.

"(4) The address of the facility at which the vaccine was administered.

"(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

"(6) The type of vaccine.

"(7) The lot number or other information identifying the particular manufacturing batch of the vaccine.

"(8) The dose of vaccine that was administered.

"(9) A notation of the presence of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware, in accordance with section 2125.

"(10) The presence of contraindications noted by the health care provider with respect to administration of the vaccine to the child.

"(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary, in consultation with State

public health officials, may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

"(d) LIMITATION.—The Secretary may not establish information reporting requirements in addition to those described in subsection (c) if such requirements are unduly burdensome.

"(e) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2146 only if the State involved agrees to ensure that, with respect to a child—

"(1) the data described in subsection (b) are submitted to the registry under such section as soon as possible but in no event later than 8 weeks after the date on which the child is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry as soon as possible but in no event later than 4 weeks after the date on which the vaccine is administered to the child.

"(f) UNIFORMITY IN METHODOLOGIES.—The Secretary shall, in consultation with State public health officials, establish standards regarding the methodologies used in establishing and operating registries under section 2146, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide maximum flexibility to the States while also retaining a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

"(g) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2146 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to transfer that information contained in the State registry pursuant to section 2146 to other States upon the request of such States for such information.

"SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2146. Such standards shall, with respect to a State, provide that the State is to have in effect laws or regulations regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(2) USE OF DISCLOSURE.—

"(A) No personally identifiable information relating to a child or to the parent or guardian of such child that is collected or maintained by the State registry may be used or disclosed by any holder of such information except as permitted for—

"(i) the monitoring of a child's immunization status;

"(ii) oversight, audit, and evaluation of the immunization delivery and registry systems;

"(iii) activities relating to establishing and maintaining a safe and effective supply of recommended childhood vaccine;

"(iv) processing of insurance claims for payment for vaccine administration (but only to the extent necessary for processing claims); and

"(v) administration of the National Vaccine Injury Compensation Program under subtitle 2.

"(B) Information regarding immunizations provided as described in subparagraph (A)(i) may be used or disclosed only with the written authorization of the individual to whom it refers or to the parent with custody of such individual.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2146 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"SEC. 2149. PROVIDER PARTICIPATION.

"(a) IN GENERAL.—The State shall monitor and enforce compliance by health care providers with the requirements of sections 2147 and 2148 and section 2155(b) for all doses of pediatric vaccine administered in the State. The State shall establish procedures satisfactory to the Secretary for discontinuing the distribution of federally purchased or State purchased vaccine for any health care provider who fails to comply with the requirements of section 2147 and for reinstating such vaccine supply to such provider upon receiving from such provider—

"(1) the reports necessary to make current and complete the information that would have been furnished to the State registry between the dates of the provider's termination and reinstatement; and

"(2) satisfactory assurances regarding the provider's future compliance.

"(b) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2146 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2150. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2146 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2146 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2152 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2146.

"SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, other than section 2153, there are authorized to be appropriated $152,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, and $35,000,000 for each of the fiscal years 1996 through 1999.

"SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a national immunization surveillance program for the purpose of assessing the effects of the programs and activities provided for in this subtitle towards appropriately immunizing children and facilitating State immunization registries. The national immunization surveillance program shall—

"(1) provide technical assistance to States for the development of vaccination registries and monitoring systems; and

"(2) receive aggregate epidemiologic data (that is in a format that is not person specific) collected by States as provided for in section 2147 at intervals determined appropriate by the Secretary for the purpose of—

"(A) compiling accurate and up-to-date surveillance data regarding immunization rates at the State level in order to assess the progress made towards achieving nationally established immunization goals;

"(B) assisting in the effective administration and management of immunization programs at the State level by providing technical assistance to guide immunization program efforts at the request of the State;

"(C) providing technical assistance to States and localities to facilitate monitoring the immunization status of children who move across geographic boundaries that are covered by different State or local registries at the request of such States or localities; and

"(D) monitoring the safety and effectiveness of vaccines by linking vaccine dosage information with adverse events reporting under section 2125(b) and disease outbreak patterns.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize the release of person specific information to the Secretary for the purpose of immunization surveillance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section in each of the fiscal years 1994 through 1999.

"SEC. 2154. REPORT.

"Not later than January 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the planning, development, operation and effectiveness of the national immunization surveillance program and the State immunization registries.

"Part C—Distribution of Vaccines, Public Outreach and Education

"SEC. 2155. DISTRIBUTION OF VACCINES.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS.—The Secretary shall provide for the distribution, without charge, of recommended pediatric vaccines (in accordance with section 2141) purchased by the Secretary to health care providers who serve children and who—

"(A) are members of a uniformed service, or are officers or employees of the United States;

"(B) are health centers (as defined in section 2162(2)); or

"(C) provide services under section 503 of the Indian Health Care Improvement Act or pursuant to a contract under section 102 of the Indian Self Determination Act.

"(2) STATES.—The Secretary shall provide for the distribution, without charge, of those recommended pediatric vaccines that are purchased by the Secretary and provided to States for the purposes of immunizing medicaid-eligible children, and additional vaccines that may be purchased by the Secretary for children within those States.

"(b) DUTIES OF HEALTH CARE PROVIDERS.—

"(1) FREE PROVISION TO CHILDREN.—A health care provider or entity receiving vaccine under this section may use such vaccine only for administration to children and may not impose a charge for such vaccine. A provider or health care entity may impose a fee that reflects actual regional costs as determined by the Secretary for the administration of such vaccine, except that a provider may not deny a child a vaccination due to the inability of the child's parent to pay an administration fee.

"(2) REPORTING REQUIREMENTS.—A health care provider receiving vaccine under this section shall report the information required under section 2147 to the applicable State registry operated pursuant to a grant under section 2146 if

such State registry exists. The provider shall additionally report to such State registry any occurrence reported to the Secretary pursuant to section 2125(b). The provider shall also provide regular and periodic estimates to the State of the provider's future dosage needs for recommended childhood vaccines distributed under this section. All reports shall be made with such frequency and in such detail as the Secretary, in consultation with State public health officials, may prescribe.

"SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUTREACH AND EDUCATION.

"(a) FEDERAL EFFORTS.—The Secretary, acting through the Centers for Disease Control and Prevention and in conjunction with State health officials and other appropriate public and private organizations, shall conduct the following activities to improve Federal, State and local vaccine delivery systems and immunization outreach and education efforts:

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary, in conjunction with State health officials and other appropriate public and private organizations, shall develop and implement a National Immunization Public Awareness Campaign to assist families (through bilingual means if necessary) of children under the age of 2 years, and expectant parents, in obtaining knowledge concerning the importance of having their children immunized and in identifying the vaccines, schedules for immunization, and vaccine provider locations, appropriate with respect to their children.

"(B) IMPLEMENTATION.—In implementing the Campaign under subparagraph (A), the Secretary shall ensure that—

"(i) new and innovative methods are developed and utilized to publicly advertise the need to have children immunized in a timely manner;

"(ii) print, radio and television media are utilized to convey immunization information to the public; and

"(iii) with respect to immunization information, efforts are made to target pregnant women and the parents of children under the age of 2.

"(2) INTERAGENCY COMMITTEE ON IMMUNIZATION.—The Secretary, in conjunction with the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Education, shall carry out activities through the Interagency Committee on Immunization to incorporate immunization status assessments and referral services as an integral part of the process by which individuals apply for assistance under—

"(A) the food stamp program under the Food Stamp Act of 1977;

"(B) section 17 of the Child Nutrition Act of 1966;

"(C) the Head Start Act;

"(D) part A of title IV of the Social Security Act;

"(E) title XIX of the Social Security Act;

"(F) any of the housing assistance laws of the United States; and

"(G) other programs determined appropriate by any of the Secretaries described in this paragraph.

"(3) EXPANDED OPPORTUNITY FOR NATIONAL SERVICE.—The Secretary, in conjunction with the Commission on National and Community Service and other independent agencies, is encouraged to develop opportunities for participants in national and community service programs to contribute to local initiatives for the improvement of immunization services, including public outreach and education efforts.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—

"(A) The Secretary may award grants to States to enable such State to develop, revise and implement immunization improvement plans as described in paragraph (2).

"(B) To be eligible to receive a grant under subparagraph (A), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) DESIGN.—A State immunization improvement plan shall be designed to improve immunization delivery, outreach, education and coordination within the State. Such plan shall provide for the creation of—

"(A) a vaccine provider education campaign and the distribution of any other materials determined to be appropriate by State health officials—

"(i) to enable such providers to make the best use of vaccination opportunities; and

"(ii) to educate such providers concerning their obligation to report immunization information with respect to their patients to State registries;

"(B) expanded capacity for the delivery of immunizations through—

"(i) increasing the number or type of facilities through which vaccines may be made available and the capacity of such facilities to immunize more children;

"(ii) developing alternative methods of delivering vaccines, such as mobile health clinics;

"(iii) increasing the number of hours during which vaccines are made available by providers within the State; or

"(iv) coordinating with federally qualified health centers to reach and immunize underserved children through education, outreach, tracking, and the provision of services;

except that, the Secretary may waive any specific requirement of this subparagraph if the Secretary determines that State immunization delivery efforts are sufficient without the imposition of such requirement;

"(C) population-based assessment criteria through which the State is able to assess the effectiveness of immunization activities in the State, which may be fulfilled through the implementation of a State immunization registry under section 2146;

"(D) a public awareness campaign, in conjunction with the National Campaign established under subsection (a)(1), to provide parents with information about the importance of immunization, the types and schedules for the administration of vaccines, and the locations of vaccines providers;

"(E) coordinated community outreach activities among public or private health programs, including local health departments and health centers, and other public or private entities, to encourage and facilitate the ability of parents to obtain immunization services for their children; and

"(F) other activities that are not inconsistent with the purposes of this subtitle, subject to the approval of the Secretary.

"(3) IMMUNIZATION IMPROVEMENT PLAN APPROVAL.—

"(A) GOALS.—As part of the immunization improvement plan of a State, the State shall establish immunization rate goals for children residing within the State.

"(B) APPROVAL.—The immunization improvement plan developed by a State under this subsection shall be submitted to the Secretary for approval prior to the distribution of grant funds to the States under this subsection. The Secretary shall periodically review the progress that the State has made under such plan in achieving the goals established under subparagraph (A).

"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grant awards will be equitably distributed between rural and urban areas. In determining such distribution, the Secretary shall take into account the added costs of supporting the health care delivery infrastructure in sparsely populated areas.

"(D) REPORTING.—A State shall annually prepare and submit to the Director of the Centers for Disease Control and Prevention a report concerning the implementation of the State immunization improvement plan. If the Director or the Secretary, in reviewing the reports submitted under this subparagraph determine that the State has exceeded the goals established under subparagraph (A), the Secretary may award a bonus to the State in an amount not to exceed 5 percent of the amount the State received under the grant for the purposes of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

"Part D—General Provisions

"SEC. 2161. REPORT.

"Not later than October 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs, efficiency, and effectiveness of procedures established to deliver vaccine to health care providers.

"SEC. 2162. NATIONAL VACCINE PROGRAM.

"The Secretary shall authorize a report to be prepared by the National Academy of Sciences concerning the role of the National Vaccine Program established under this title in achieving progress towards the nationally established immunization goals for the year 2000, and recommendations with respect to the changes in such Program that would facilitate greater progress towards achieving such goals.

"SEC. 2163. DEFINITIONS.

"For purposes of this subtitle—

"(1) HEALTH CARE PROVIDER.—The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

"(2) HEALTH CENTER.—The term 'health center' means—

"(A) a federally-qualified health center, as defined in section 1905(l)(2) of the Social Security Act; or

"(B) a public or nonprofit private entity receiving Federal funds under—

"(i) section 329, 330 or 340;

"(ii) section 340A (relating to grants for health services for residents of public housing); or

"(iii) section 501(a)(2) of the Social Security Act (relating to special projects of regional and national significance).

"(3) IMMUNIZATION.—The term 'immunization' means an immunization against a vaccine-preventable disease.

"(4) PARENT.—The term 'parent', with respect to a child, means a legal guardian of the child.

"(5) PEDIATRIC VACCINE.—The term 'pediatric vaccine' means a vaccine included on the list established under section 2141.

"(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Republic of the Marshall Islands, Micronesia, the Northern Mariana Islands, and Palau.".

SEC. 12203. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) AMENDMENT OF VACCINE INJURY TABLE.—

(1) ADDITION OF VACCINES.—Section 2114 (42 U.S.C. 300aa–14) is amended by adding at the end thereof the following new subsection:

"(f) ADDITION OF VACCINES TO TABLE.—

"(1) IN GENERAL.—The Vaccine Injury table contained in subsection (a) shall also include

any recommended childhood vaccine included in the list promulgated by the Secretary under section 2141.

"(2) REVIEW OF INFORMATION AND REVISION.—Not later than 2 years after the addition of a new vaccine to the table contained in subsection (a), and on a regular basis thereafter, the Secretary shall review information obtained under sections 2125 and part B of subtitle 3, and based on such review (and other relevant information) shall, as appropriate, develop with respect to such new vaccine—

"(A) revisions with respect to illnesses, disabilities, injuries or conditions covered by such table;

"(B) appropriate specifications of the time period for the first symptom or manifestation of onset or of significant aggravation of such illnesses, disabilities, injuries or condition after vaccine administration, for purposes of receiving compensation under the Program; and

"(C) recommendations as to the amount of tax that should be imposed under section 4131 of the Internal Revenue Code of 1986 for each dose of vaccine.

"(3) LIMITATION.—The Secretary may modify the table contained in subsection (a) pursuant to paragraphs (1) and (2) only in accordance with subsection (c).

"(4) REVISION.—For purposes of section 2116(b), the addition of vaccine to the table contained in subsection (a) by operation of this subsection shall constitute a revision of the table.".

(2) ATTORNEYS FEES.—Section 2115(e) (42 U.S.C. 300aa–15(e)) is amended by adding at the end thereof the following new paragraph:

"(4) The special master may award reasonable attorneys fees whether or not an election has been made under section 2121(a) to file a civil action concerning such petition.".

(3) CONSENT FOR ANNUITY.—Subparagraphs (A) and (B) of section 2115(f)(4) are amended by striking ", with the consent of the petitioner," each place that such appears.

(4) TIME PERIODS FOR FEES AND COSTS.—

(A) IN GENERAL.—Section 2115(e) (42 U.S.C. 300aa–15(e)) (as amended by paragraph (3)) is further amended by adding at the end thereof the following new paragraph:

"(5) With respect to a petitioners' application for attorneys' fees and costs—

"(A) if the respondent enters no objection to such application within 21 days of the date on which the application was filed (unless such time period is extended by the special master with the consent of the petitioner) the special master shall enter a decision on such application within 30 days of such filing;

"(B) if the respondent files an objection to such application and the special master does not enter a decision with respect to the application within 60 days after the date on which the objection is filed, the special master involved shall, upon the written request of the petitioner, enter a decision within 15 days after the filing of such request; and

"(C) if the respondent files an objection to such application and the petitioner moves to reduce costs and fees as provided for in the objection, the special master shall enter a decision within 5 days after the receipt of the petitioner's motion.

The chief special master, upon the request of a special master, may waive the time limitations applicable to the special master under this paragraph if the special master demonstrates that complicating factors exist with respect to the issues involved to which the time limitation applies.".

(B) APPLICATION.—The amendment made by subparagraph (A) shall apply to all petitioners' applications for attorneys' fees and costs filed under section 2115(e) of the Public Health Service Act which are pending on the date of enactment of this Act.

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 2115(j) (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for each succeeding fiscal year" and inserting in lieu thereof "$110,000,000 for each succeeding fiscal year".

(6) LIMITATION OF ACTIONS.—Section 2116(b) (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(b) EXTENSION OF TIME FOR DECISION.—

(1) JURISDICTION.—Section 2112(d)(3)(D) (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for not more than 6 months at a time)".

(2) REPORT ON COLLECTIONS.—Section 2117 (42 U.S.C. 300aa–17) is amended by adding at the end thereof the following new subsection:

"(c) REPORT.—The Attorney General shall, on January 1 of each year, prepare and submit to the appropriate committees of Congress a report concerning amounts collected under this section.".

(3) INCREASED RESPONSIBILITIES OF COMMISSION.—Section 2119(f) (42 U.S.C. 300aa–19(f)) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ", and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) monitor the balance of the Vaccine Injury Trust Fund established by section 9510 of the Internal Revenue Code and, as appropriate, recommend changes in the tax per dose of vaccine imposed under section 4131 of such Code.".

(c) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) INFORMATION.—Section 2126(b) (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking "by rule" in the matter preceding paragraph (1);

(B) in paragraph (1), by striking "90" and inserting "30"; and

(C) in paragraph (2), by striking ", appropriate health care providers and parent organizations".

(2) REQUIREMENTS.—Section 2126(c) (42 U.S.C. 300aa–26(c)) is amended—

(A) in the matter preceding paragraph (1), by inserting "shall be based on available data and information," after "such materials"; and

(B) by striking out paragraphs (1) through (10) and inserting in lieu thereof the following new paragraphs:

"(1) a concise description of the benefits of the vaccine;

"(2) a concise description of the risks associated with the vaccine;

"(3) a statement of the availability of the National Vaccine Injury Compensation Program;

"(4) a statement of the availability from the Secretary of more detailed written information concerning the information required under paragraphs (1), (2), and (3), that shall be made available to the parent, legal guardian, or other responsible person upon request; and

"(5) such other relevant information as determined appropriate by the Secretary.".

(3) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 (42 U.S.C. 300aa–26(a) and (d)) are amended by inserting "or to any other individual" immediately after "to the legal representative of any child" each place that such occurs.

(4) PROVIDER DUTIES.—Subsection (d) of section 2126 (42 U.S.C. 300aa–26(d)) is amended—

(A) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and

(B) by striking "or other information" in the last sentence.

(d) AUTHORIZATION OF APPROPRIATIONS.—Part A of subtitle 2 of title XXI (42 U.S.C. 300aa–10 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2120. (a) SECRETARY.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986, to the Secretary, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.

"(b) ATTORNEY GENERAL.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Attorney General, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.

"(c) COURT OF FEDERAL CLAIMS.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Court of Federal Claims, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.".

SEC. 12204. MISCELLANEOUS PROVISIONS.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) and (4), respectively.

SEC. 12205. PERFORMANCE BASED GRANT PROGRAM.

(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Center for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Health and Human Services shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 65 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

(2) As a condition of receiving amounts under this section—

(i) States which combine State and Federal funds to reach immunization goals shall agree to reinvest in activities related to improving immunization services that percentage of the payment under subsection (b)(1) which is equal to the Federal contribution to immunization services in the State proportional to the State contribution to such services.

(ii) States which verify that State-only funds are responsible for the increase in immunization rates that qualifies such State for payment under subsection (b)(1) may use amounts awarded under this section for other purposes at the State's discretion.

(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary of Health and Human Services shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

(c) DEFINITION.—For purposes of this section, the term "fully immunized" means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

Subtitle D—ERISA Amendments

CHAPTER 1—GROUP HEALTH AMENDMENTS

SEC. 12301. COORDINATION OF ERISA PREEMPTION RULES WITH SOCIAL SECURITY ACT PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES AND CHILD HEALTH INSURANCE SUPPORT ENFORCEMENT.

(a) IN GENERAL.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

"(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

"(i) subparagraphs (A), (B), and (I) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to medicaid as secondary payor), as in effect on October 1, 1993; and

"(ii) sections 1902(a)(60) and 1908 of such Act (relating to assignment of rights of payment and child health insurance support), as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 12302. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

"A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 608 the following new item:

"Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

CHAPTER 3—PUBLIC HEALTH SERVICE ACT

SEC. 12321. PROHIBITION ON REDUCTION IN COVERAGE OF PEDIATRIC VACCINE.

Part D of subtitle 2 of title XXI of the Public Health Service Act (42 U.S.C. 300aa–31 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 2135. PROHIBITION ON REDUCTION IN COVERAGE OF PEDIATRIC VACCINE.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a health insurance policy in effect prior to May 1, 1993, may not reduce the level of coverage for the costs of pediatric vaccines below the level of coverage provided on the date of enactment of this section.

"(b) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—An entity that fails to comply with subsection (a) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to whom such a failure occurs.

"(2) ENFORCEMENT.—With respect to an entity that offers a health insurance policy in violation of subsection (a), the provisions of section 353(h)(3), regarding procedures for the imposition of civil money penalties developed by the Secretary, shall apply in the same manner as such provisions apply to penalties or proceedings under section 353.

"(c) DEFINITIONS.—As used in this section:

"(1) HEALTH INSURANCE POLICY.—The term 'health insurance policy' has the same meaning given the term 'employee welfare benefit plan' in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and includes any other policy or plan which provides coverage for the provision of health care services (including a health maintenance organization agreement).

"(2) PEDIATRIC VACCINES.—The term 'pediatric vaccines' has the same meaning given such term in section 2163.".

TITLE XIII—VETERANS' PROGRAMS

SEC. 13001. PERMANENT EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 13002. POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES.

The fiscal year 1994 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar. The effective date of such adjustments shall not be earlier than December 4, 1993.

SEC. 13003. REDUCTION IN BASIC PAY AND INCENTIVES OF MONTGOMERY GI BILL PARTICIPANTS.

(a) ACTIVE DUTY.—Section 3011(b) of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (2); and

(3) in paragraph (1), as so designated, by striking out "shall be reduced by" and all that follows through the period and inserting in lieu thereof "shall be reduced by—

"(A) in the case of an individual who first enters on active duty before October 1, 1993, $100 for each of the first 12 months that such individual is entitled to such pay;

"(B) in the case of an individual who first enters on active duty during the fiscal year beginning on October 1, 1993, $137 for each of the first 12 months that such individual is entitled to such pay; and

"(C) in the case of an individual who first enters on active duty during any fiscal year beginning after September 30, 1994, an amount for each of the first 12 months that such individual is entitled to such pay that is equal to the amount of the monthly pay reduction of an individual under this paragraph during the previous fiscal year increased by the same percentage, if any, as the percentage by which monthly rates of educational assistance are increased for such fiscal year under section 3015(g)(3) of this title.".

(b) SELECTED RESERVE.—Section 3012(c) of such title is amended—

(1) by inserting "(1)" after "(c)";

(2) by designating the second sentence as paragraph (2); and

(3) in paragraph (1), as so designated, by striking out "shall be reduced by" and all that follows through the period and inserting in lieu thereof "shall be reduced by—

"(A) in the case of an individual who first enters on active duty before October 1, 1993, $100 for each of the first 12 months that such individual is entitled to such pay;

"(B) in the case of an individual who first enters on active duty during the fiscal year beginning on October 1, 1993, $137 for each of the first 12 months that such individual is entitled to such pay; and

"(C) in the case of an individual who first enters on active duty during any fiscal year beginning after September 30, 1994, an amount for each of the first 12 months that such individual is entitled to such pay that is equal to the amount of the monthly pay reduction of an individual under this paragraph during the previous fiscal year increased by the same percentage, if any, as the percentage by which monthly rates of educational assistance are increased for such fiscal year under section 3015(g)(3) of this title.".

(c) ENROLLMENT BEFORE INVOLUNTARY SEPARATION.—Section 3018A(b) of such title is amended by striking out "$1,200" and inserting in lieu thereof "an amount equal to 12 times the amount of the monthly pay reduction determined for the individual in accordance with section 3011(b)(1) or section 3012(c)(1) of this title. For the purposes of such determination, the date of the individual's election to receive assistance under subsection (a)(5) shall be considered the date that the individual first enters on active duty.".

(d) ENROLLMENT BY VOLUNTARY SEPARATION INCENTIVE RECIPIENTS.—Section 3018B(b)(1) of such title is amended by striking out "$1,200" and inserting in lieu thereof "an amount equal to 12 times the amount of the monthly pay reduction determined for the individual in accordance with section 3011(b)(1) or section 3012(c)(1) of this title. For the purposes of such determination, the date of the individual's election to receive assistance under subsection (a)(1)(E) shall be considered the date that the individual first enters on active duty.".

SEC. 13004. PERMANENT EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES UPON DEFAULT OF HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF RESALE LOSSES IN NET-VALUE CALCULATION.—Paragraph (1)(C) of section 3732(c) of title 38, United States Code, is amended by inserting "(including losses sustained on the resale of the property)" after "resale".

(b) PERMANENT EXTENSION OF AUTHORITY.—Paragraph (11) of such section is repealed.

SEC. 13005. INCREASE IN CERTAIN LOAN FEES.

(a) FEE INCREASE.—Paragraph (2) of section 3729(a) of title 38, United States Code, is amended—

(1) in the matter above subparagraph (A), by striking out "1.25 percent" and inserting in lieu thereof "2 percent";

(2) in subparagraph (A), by striking out "one percent" and inserting in lieu thereof "1 percent";

(3) in subparagraph (B), by striking out "0.75 percent" and inserting in lieu thereof "1.50 percent";

(4) in subparagraph (C), by striking out "0.50 percent" and inserting in lieu thereof "1.25 percent"; and

(5) in subparagraph (D)—

(i) by striking out "two percent" in clause (i) and inserting in lieu thereof "2.75 percent";

(ii) by striking out "one percent" in clause (ii) and inserting in lieu thereof "1 percent";

(iii) by striking out "1.50 percent" in clause (iii)(I) and inserting in lieu thereof "2.25 percent"; and

(iv) by striking out "1.25 percent" in clause (iii)(II) and inserting in lieu thereof "2 percent".

(b) FEE FOR MANUFACTURED HOMES.—Such paragraph is further amended—

(1) in subparagraph (A), by striking out "or for any purpose specified in section 3712 of this title (other than section 3712(a)(1)(F))";

(2) by striking out "and" at the end of subparagraph (D);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(F) in the case of a loan made for any purpose specified in section 3712 of this title (other than subsection (a)(1)(F) of such section), the amount of such fee shall be one percent of the total loan amount.".

(c) REPEAL OF TEMPORARY INCREASE IN FEES.—Such section is further amended—

(1) in paragraph (2), by striking out "Except as provided in paragraph (6) of this subsection, the" in the matter above subparagraph (A) and inserting in lieu thereof "The"; and

(2) by striking out paragraph (6).

SEC. 13006. PERMANENT EXTENSION OF MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before August 1, 1994,".

SEC. 13007. PERMANENT EXTENSION OF REQUIREMENT THAT CERTAIN VETERANS MAKE COPAYMENTS FOR HEALTH-CARE SERVICES.

(a) MEDICATION COPAYMENT REQUIREMENT.—Section 1722A of title 38, United States Code, is amended by striking out subsection (c).

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 13008. PERMANENT AUTHORITY TO VERIFY INCOME ELIGIBILITY FOR NEED-BASED BENEFITS.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking out the last sentence.

TITLE XIV—ENFORCEMENT PROCEDURES

Part A—Extension of Budget Enforcement

SEC. 14001. PURPOSE.

The Congress declares that it is essential to—

(1) preserve the deficit reduction achieved by this Act;

(2) extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974;

(3) extend the pay-as-you-go enforcement system; and

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus achieved by this Act and created under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14002. DISCRETIONARY SPENDING LIMITS.

(a) DEFINITION OF "DISCRETIONARY SPENDING LIMIT".—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (D) by striking the word "and"; and

(2) by inserting after subparagraph (E) the following:

"and

"(F) with respect to fiscal years 1996, 1997, and 1998, for the discretionary category, the amounts set forth for those years in section 12(b)(1) of House Concurrent Resolution 64 (One Hundred Third Congress);".

(b) POINT OF ORDER IN THE SENATE.—Section 601(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.".

(c) CONFORMING AMENDMENTS.—(1) Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "FISCAL YEARS 1991–1995 ENFORCEMENT.—" and inserting "FISCAL YEARS 1991–1998 ENFORCEMENT.—";

(B) in subsection (b)(1)—

(i) in the matter before subparagraph (A), by—

(I) striking "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995" and inserting "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995" and inserting "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1998";

(ii) in paragraph (1)(B), by inserting at the end thereof the following new clause:

"(iii) For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103–48.";

(iii) in the matter before subparagraph (A) in paragraph (2) by—

(I) striking "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995" and inserting "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "for the fiscal year and each succeeding year through 1995," and inserting "for the fiscal year and each succeeding year through 1998,";

(iv) in paragraph (2)(D)(i), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year,";

(v) in paragraph (2)(E), by—

(I) striking the final word "and" in subparagraph (ii); and

(II) inserting before the final period the following:

"; and

"(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority due to technical estimates made by the director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for any one fiscal year) equal to 0.1 percent of the adjusted descretionary spending limit on new budget authority for that fiscal year"; and

(vi) in paragraph (2)(F), by inserting immediately before the final period the following: ", and not to exceed 0.5 percent of the adjusted descretionary spending limit on outlays for the fiscal year in fiscal year 1996, 1997, or 1998".

(2) REPORTS.—Sections 254(d)(2) and 254(g)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 are each amended by striking "1995" and inserting "1998".

(3) EXPIRATION.—(A) Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, sections 250, 251, 252, and 254 through 258C of that Act shall expire on September 30, 1998.

(B) Section 607 of the Congressional Budget Act of 1974 is amended by striking "shall apply to fiscal years 1991 to 1995" and inserting "shall apply to fiscal years 1991 to 1998".

SEC. 14003. ENFORCING PAY-AS-YOU-GO.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking "FISCAL YEAR 1992–1995 ENFORCEMENT." and inserting "FISCAL YEAR 1992–1998 ENFORCEMENT.";

(2) in subsection (d), by striking "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995" both places that it appears and inserting "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998" both places; and

(3) in subsection (e), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year from 1991 through 1998,".

(b) Section 254(g)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "1998".

(c) Upon enactment of this Act, the director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.

SEC. 14004. EXERCISE OF RULE-MAKING POWERS.

The Congress enacts the provisions of this part—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such these provisions shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XV—MISCELLANOUS PROVISIONS

SEC. 15001. SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) FINDINGS.—The Senate finds that—

(1) the crises of poverty, high unemployment, out-migration, and job loss in America's inner-cities, rural areas and Indian reservations demands an appropriate and timely response from Congress;

(2) manufacturing and industry has largely disappeared from many United States inner cities and rural areas. This, in turn, has led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) encouraging small and medium-sized businesses, which create the majority of new jobs in the United States economy, to locate and invest in poor areas is one of the keys to revitalizing urban and rural America;

(4) Enterprise Zones will help attract businesses to build and grow in poor areas; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) the decline of small industry in rural areas has caused thousands of people to leave such areas, thus hastening the decay of rural communities and leaving the elderly in particular stranded without the help of family and younger neighbors;

(6) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful, having generated capital investments in poor neighborhoods in excess of $28,000,000,000 and having created more than 258,000 jobs; and

(7) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

(b) DEFINITIONS.—

(1) The term "Enterprise Zone" means any economically distressed urban area, rural area, or Indian reservation designated by the Secretaries of Housing and Urban Development, Agriculture or Interior for special regulatory and tax treatment, and for the targeting of Federal, State, and local programs for the purposes of providing economic revitalization, economic development, and job creation;

(2) The term "empowerment zone" means any designated enterprise zone which is designated to receive the full package of regulatory and tax relief and targeted programs as provided for by the enterprise zone program; and

(3) The term "enterprise community" means any area eligible for enterprise zone designation and ultimately designated by the Secretaries of Housing and Urban Development, Agriculture, or the Interior but does not receive the full package regulatory relief, tax relief and targeted programs.

(c) SENSE OF THE SENATE.—It is the Sense of the Senate that—

(1) enterprise zones are a vital, proven tool for inner-city, rural, and Indian reservation revitalization and that Congress should adopt Federal enterprise zone legislation;

(2) to insure cooperation and coordination among Federal agencies and to provide targeted regulatory relief, such legislation shall include the establishment of an Enterprise Board to development the selection criteria and to waive any provision of Federal law or regulation administered by the Secretary of the Department's of Housing and Urban Development, Agriculture, Health and Human Services, Labor, or Education, if the Board determines the waiver is necessary for achievement of the comprehensive strategic plan of an enterprise zone;

(3) to adequately and substantially address the crisis in urban and rural America, such legislation shall include at least 75 empowerment zones; and

(4) each empowerment zone shall include each of the following provisions:

(A) Enterprise Grants for implementing local coordinated strategic plans such as:

(i) creating new, coordinated delivery systems for relevant government services;

(ii) creating community lending or micro-enterprise loan funds;

(iii) providing technical assistance, entrepreneurial support, workforce skill programs, and job-search and job matching networks in the labor market;

(iv) leveraging private matching support; and

(v) matching funds for community development corporations;

(B) Community Policing Grants to increase police presence, expand cooperative efforts between law enforcement and the community, and to assure public safety;

(C) Innovative programs and zone priority investments of existing Federal agency funds targeted towards empowerment zones;

(D) Tax incentives aimed at reducing both capital and labor costs associated with operation of a business in an empowerment zone;

(E) Tax incentives aimed at attracting equity investments, including venture and seed capital, in start-up or small enterprise zone businesses; and

(F) Tax incentives to encourage the hiring and training of economically disadvantaged individuals;

(5) Because the migration of jobs from rural areas has caused many families to migrate too, the indications of distress are different for rural than for urban areas. Specifically, in determining whether a rural area is eligible for an enterprise zone, the factors shall include job loss and out-migration, rather than just the poverty rate, which is an appropriate factor for urban areas.

SEC. 15002. AMERICAN CITIZENS ANNUAL REPORT ACT.

(a) SHORT TITLE.—This section may be cited as the "American Citizens Annual Report Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Publicly owned corporations provide shareholders with an annual report on the financial status of the corporation.

(B) Americans are entitled to an annual report on the financial status of the Federal Government, as all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(C) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(D) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(E) The Chief Financial Officers Act is leading agencies to develop reliable and relevant financial information that is to be useful to the public, including audited financial statements.

(F) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(G) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(2) PURPOSES.—The purposes of this section are to—

(A) provide the American taxpayer with an annual report on the financial status of the Federal Government;

(B) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(C) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(D) bring a public focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

(c) ANNUAL REPORT.—Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall distribute to all taxpayers described in paragraph (6) an annual report (referred to in this subsection as the 'annual report') containing—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source, along with a brief description of those trends for the most recent year;

"(B) a comparison of the actual Federal spending and revenues by major category or source for the most recent fiscal year—

"(i) to the budget request estimates as submitted by the President for that year; and

"(ii) to the enacted budget,

along with notes explaining differences;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure recommended for inclusion by the advisory committee and deemed appropriate by the Director of the Office of Management and Budget.

"(2)(A) Preparation and content of the annual report shall be supervised and directed by the Director of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Director of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 9 members as follows:

"(i) 3 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The annual report shall contain a statement of assurance by the Director of the Office of Management and Budget and an audit opinion the Comptroller General attesting to the reliability and relevancy accuracy of the information contained in the annual report.

"(4) The annual report shall be prepared annually in a timely fashion after the close of each fiscal year. If the final annual report for a fiscal year is not available within 3 calendar

months after the close of that fiscal year, a preliminary annual report shall be prepared and published within that period containing substantially all the material described in subparagraphs (A) and (B) of paragraph (1) and the final annual report shall be prepared and published as soon as possible thereafter.

"(5)(A) In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include on the front inside cover of such booklet of instructions (in addition to the information required in subsection (a) of section 7523 of the Internal Revenue Code of 1986) a summary of the annual report prepared by the Director.

"(B) The summary referred to in subparagraph (A) shall—

"(i) include the cumulative Federal debt at the end of each of the 10 preceding fiscal years expressed in total dollars and in dollars per capita;

"(ii) include the Federal deficit for each of the 10 preceding years expressed in total dollars and dollars per capita; and

"(iii) be presented in a manner that is easily comprehensible to a taxpayer.

"(6)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the annual report described in this subsection and, in cases where a taxpayer requests more than one copy of the report, submits a processing fee (if any) as described in paragraph (7).

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(7) Notwithstanding any other provision of law, the Secretary of the Treasury may impose a processing fee or may accept contributions from corporations, foundations, and other private entities for distribution or preparation of the report, or both.".

(d) AUTHORIZATION.—For the purpose of carrying out the provisions of the amendment made by this section, there are authorized to be appropriated to the Secretary of the Treasury and the Director of the Office of Management and Budget $10,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995, 1996, 1997 and 1998. These amounts shall include any funds raised through the authority established in section 3513(d)(7) of title 31, United States Code, as added by this section.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

There being no objection, the Vice President appointed from the Committee on the Budget: Mr. SASSER, Mr. HOLLINGS, Mr. JOHNSTON, Mr. DOMENICI, and Mr. GRASSLEY; from the Committee on Agriculture, Nutrition, and Forestry: Mr. LEAHY, Mr. PRYOR, and Mr. LUGAR; from the Committee on Armed Services: Mr. NUNN, Mr. SHELBY, and Mr. COATS; from the Committee on Banking, Housing, and Urban Affairs: Mr. RIEGLE, Mr. SARBANES, and Mr. D'AMATO; from the Committee on Commerce, Science, and Transportation: Mr. HOLLINGS, Mr. INOUYE, Mr. BREAUX, Mr. STEVENS, and Mr. DANFORTH; from the Committee on Energy and Natural Resources: Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. WALLOP, and Mr. HATFIELD; from the Committee on Environment and Public Works: Mr. BAUCUS, Mr. MOYNIHAN, and Mr. CHAFEE; from the Committee on Finance: Mr. MOYNIHAN, Mr. BAUCUS, Mr. BRADLEY, Mr. MITCHELL, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE; from the Committee on Foreign Relations: Mr. PELL, Mr. KERRY, and Mr. HELMS; from the Committee on Governmental Affairs: Mr. GLENN, Mr. LEVIN, Mr. PRYOR, Mr. ROTH, and Mr. STEVENS; from the Committee on the Judiciary: Mr. DECONCINI, and Mr. HATCH; from the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. THURMOND, Mr. HATCH, and Mr. DURENBERGER; from the Committee on Veterans' Affairs: Mr. ROCKEFELLER, Mr. DECONCINI, and Mr. MURKOWSKI conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I would like to take one moment of the Senate's time to commend the distinguished chairman of the Budget Committee, JIM SASSER of Tennessee, who stood on this floor day after day and hour after hour and has handled this bill in a magnificent fashion. I think that he is to be commended by both sides of the aisle, Mr. President.

And also I extend our thanks and congratulations to the Senator from New Mexico [Mr. DOMENICI]. He also has taken a lot of heat during these 2 days, as has our friend, JIM SASSER. Both of these gentlemen, with their fine staffs, have rendered a magnanimous service to the Senate and to the American people.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I wish to express my appreciation to the distinguished Senator from Arkansas for his very kind words, and I also want to express my appreciation to my friend from New Mexico, Senator DOMENICI, the ranking member of the Budget Committee. We have disagreed on a number of these amendments as they have come before the body over the past 2 days, but he has always been agreeable in our disagreements and has been helpful where his principles will allow him to be.

I wish to express my appreciation also to Larry Stein, the staff director of the Budget Committee, for his stalwart service; and to Bill Dauster, our excellent general counsel, who has been magnificent throughout this whole trial; and also to our great staff on the Budget Committee for their magnificent help.

I yield the floor, Mr. President.

Mr. SARBANES addressed the Chair

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I wish to echo the comments of the distinguished Senator from Arkansas with respect to the extraordinarily fine work that was done by the chairman of the Budget Committee, the able Senator from Tennessee, not only over the course of the past 2 days in actually handling the bill on the floor, but the great skill with which he guided the resolution through the Budget Committee.

And I also want to particularly recognize the very fine work that was done by the various committee chairmen, and particularly by the Finance Committee, which had such a heavy burden to carry in this regard, Senator MOYNIHAN and his colleagues on the Finance Committee.

And I wish to say to my good friend from New Mexico, the ranking Republican member of the Budget Committee, on which I was privileged to serve this year, it was a pleasure to be in the room with him. Although we did not agree on the substance, I think we were able to work together in other respects.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to thank Senator PRYOR and Senator SARBANES for their kind words, but most importantly I say thank you to my friend, Senator SASSER. It is always a pleasure to work with him. I think we do the job of the Senate. That is why we are here. And let me say again to Senator SASSER, he did a great job with a very difficult bill.

I am sure the Senator had his better moments, and some that were not so good. The same held for me. But I just want to say thank you for the Senator's hospitality and kindness. I think we did our work under tough circumstances.

I thank the Senator.

Mr. SASSER. Mr. President, I thank the Senator from New Mexico for his kind comments. I express my absolute appreciation to the distinguished Senator from New Mexico for not only his kind comment but for his stalwart service on the Budget Committee this year. Frankly, he has been one of the most valuable members of the committee during his tenure there. I relied very much on his advice and counsel as we developed this whole process.

The Senator from New Mexico is right; it has been difficult all the way through.

Mr. MOYNIHAN. Mr. President, I express my appreciation to Senator SARBANES for his characteristically generous overtures.

Mr. DOMENICI. Mr. President, there is no way we could have done our work without a very gifted staff and some magnificent leadership on our staff. Let me thank Bill Hoagland of the Budget Committee and all of those who work with him. We had wonderful help from the Finance Committee, and that is not discounting the assistance of the other committees. I thank Lindy Paull. I thank Ed Mihalski; he has been absolutely tremendous. I thank him for that. We thank Rick Grafmeyer, also.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask now that we have a period for morning business, with Senators permitted to speak therein.

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

FUNERAL SERVICES FOR PAT NIXON

Mr. SIMPSON. Mr. President, I want to state that on Saturday morning several of us, a bipartisan group, will be going to California for the funeral services of Pat Nixon, those of us who knew her, who will be attending, knew she was one of the most dignified, gracious first ladies of America. I want to provide more extensive remarks next week when we return.

I want to say that my parents knew her and knew the President. My father was Governor when he was Vice President. Pat Nixon and my mother, Lorna, were very close. Pat was a most extraordinary lady, a woman of great substance and grace, and certainly not as portrayed by some in her time here in Washington.

So I say to her wonderful family that we extend our deepest sympathies to President Nixon and to the girls and their families. Rest her soul. She was an extraordinarily gracious and very dear and very kind woman.

As I say, I will extend my remarks when we return. I have no further remarks at this time.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 230. Archer L. Durham, to be an Assistant Secretary of Energy;

Calendar 231. William J. Taylor III, to be an Assistant Secretary of Energy;

Calendar 232. William H. White, to be Deputy Secretary of Energy;

Calendar 239. Maria Echaveste, to be Administrator of the Wage and Hour Division, Department of Labor;

Calendar 240. Sharon Porter Robinson, to be Assistant Secretary for Educational Research and Improvement, Department of Education; and

Calendar 241. Judith A. Winston, to be General Counsel, Department of Education.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Archer L. Durham, of Maryland, to be an Assistant Secretary of Energy (Human Resources and Administration).

William J. Taylor III, of Texas, to be an Assistant Secretary of Energy (Congressional, Intergovernmental, and International Affairs).

William H. White, of Texas, to be Deputy Secretary of Energy.

DEPARTMENT OF LABOR

Maria Echaveste, of New York, to be Administrator of the Wage and Hour Division, Department of Labor.

DEPARTMENT OF EDUCATION

Sharon Porter Robinson, of Kentucky, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

Judith A. Winston, of the District of Columbia, to be General Counsel, Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Tuesday, June 22, the Federal debt stood at $4,299,889,449,998.07, meaning that on a per capita basis, every man, woman, and child in America owes $16,740.27 as his or her share of that debt.

CONGRESSMAN BILL NATCHER

Mr. FORD. Mr. President, as most in this Chamber already know, Congressman BILL NATCHER, dean of the Kentucky delegation, chairman of the House Appropriations Committee, cast his 18,000th consecutive rollcall vote earlier this week.

BILL NATCHER is not one to seek the limelight. He has no press office, no media advisers, no fax machine—just a way of getting things done for the folks back home. A profile a few years back focused on BILL's visibility, or rather his invisibility, outside the Beltway. The article noted that he had no problem with his lack of fame, particularly since he had control over 65 percent of the Federal budget at that time. Well, I can assure you that he is well known to the people he represents in Kentucky's Second District. In 1992, the most recent "Year of the Anti-Incumbent," they sent him back to Washington with 61 percent of the vote. Not bad for someone who spent less than $7,000 on a campaign—all of that his own money.

BILL often tells the story of how when coming to Washington as a freshman legislator he thought he would never move up the ladder, that he would be forever on the bottom rung of seniority. Well, 20 terms later, I think he is feeling a little more secure now, and I know that I speak for my constituents as well as myself in saying that we appreciate his service to the Commonwealth and to our country. BILL NATCHER is someone we all can look up to.

RUSSIA'S STRUGGLE FOR A NEW CONSTITUTION

Mr. PELL. Mr. President, on June 5, an extraordinary Russian Constitutional Assembly, convened by President Boris Yeltsin, began work on approving a new Russian Constitution, which could fundamentally change Russia's political landscape. The outcome could affect America's vital interests across a broad range of economic and national security issues.

Last month, in my capacity as vice chairman of the Joint Committee on the Library, I requested the Congressional Research Service to prepare a report on Russia's struggle to adopt a new constitution, with an assessment of the implications of the likely outcome for Russia and for the United States.

This is a task that CRS is uniquely qualified to perform, as the attached extracts from the new CRS report illustrate. CRS has been closely monitoring these political developments for 3 years beginning in 1990, when Russia was still part of the U.S.S.R. and most Soviet specialists considered the Russian Republic, headed by Boris Yeltsin, to be of but minor importance, eclipsed by the Soviet Government of Mikhail Gobachev.

Exactly 3 years ago, in June 1990, the executive secretary of the newly created Russian Constitutional Commission visited CRS seeking expert help in beginning its work on a new constitution for Russia. That began a long series of consultations, communications, exchanges of experts and of documents, and a remarkable conference in Moscow in November 1992, jointly sponsored by CRS and the Russian Supreme Soviet and funded by private foundations, on the subjects of federalism and the separation of powers.

The audience at that conference consisted of senior members of the Constitutional Commission from both the executive and legislative branches, members of the parliament, representatives of regional and local governments, scholars, and businessmen. It fully vented the very issues that are at the heart of the present constitutional debate and gave CRS specialists a chance to discuss the issues in detail with many of the people who are now central players in determining Russia's future.

During the same period, as part of a congressionally approved program, CRS established cooperative relations with a broad range of Russian members of parliament and their staff for the purposes of deepening CRS' ability to keep the Congress informed about Russian political developments and furthering Congress' desire to promote parliamentary democracy in Russia. In the course of this undertaking, CRS has become one of the world's leading sources of analysis on the Russian legislature.

In preparing the present study, CRS specialists were able to call upon years of direct contacts with Oleg Rumyantsev, Executive Secretary of the Constitutional Commission, Sergie Shakhrai, Deputy Prime Minister and one of the principal drafters of Yeltsin's proposed constitution, and Sergei Filatov, formerly First Deputy Chairman of the Supreme Soviet and now Chief of the President's Administration, to name a few.

President Yeltsin is now attempting to capitalize on his April referendum victory by pushing through a new constitution that creates a strong presidential system of government with a relatively weak parliament. The United States Government has generally supported President Yeltsin in his struggles against the increasingly anti-reformist legislature—and properly so. But in the present contest over a new constitution, this CRS study finds that, contrary to the conventional wisdom, an unconditional victory by Yeltsin's supporters might not be in the best interests of Russia or the United States.

CRS suggests that in their zeal to defeat the present legislature, Yeltsin and his advisers may create a presidency with powers that they themselves would find intolerable if an opponent of theirs became president. However, the rival Constitutional Commission draft is also seriously flawed. It would seem, therefore, that a compromise that combined the best elements of both drafts would be the preferred outcome.

Mr. President, I ask unanimous consent that a digest of a new CRS report for Congress, entitled Russia: Toward a New Constitution, by Dr. Stuart D. Goldman, be published in the RECORD at this point.

RUSSIA: TOWARD A NEW CONSTITUTION

(By Stuart D. Goldman)

Russia is in the grip of an intense political and constitutional crisis whose outcome directly affects America's vital interests in Russia, which are widely defined as continued democratization, progress toward a market economy, cooperative U.S.-Russian relations, and stable control over the former Soviet Union's nuclear weapons and nuclear materials.

The Russian crisis has many aspects. Chief among them are: a struggle over political ideology and the character of post-Soviet government; a contest over the pace and character of economic reform and the ownership of vast amounts of property; an institutional clash between the executive and legislative branches of government; and the personal rivalry between President Boris Yeltsin and the man who has emerged as his chief nemesis, Supreme Soviet Chairman Ruslan Khasbulatov. Through the winter, the anti-Yeltsin opposition in the legislature appeared to have the upper hand and came close to removing Yeltsin by impeachment on March 29, 1993. Public opinion shifted sharply in favor of Yeltsin in this confrontation, and with the failure of the impeachment move and Yeltsin's victory in the April 25 referendum, Yeltsin regained the initiative. He did not, however, score a decisive or unconditional victory.

Yeltsin in attempting to capitalize on his referendum victory by pushing through a new constitution that creates a strongly presidential system of government with a relatively weak parliament. On June 5, 1993, he convened an extraordinary Constitutional Assembly to approve a new constitution. It has before it two major competing drafts: the president's and that of the parliament's Constitutional Commission, which would preserve parliamentary power with a more even balance between the two branches.

U.S. news media have generally portrayed the Russian political crisis as a struggle between a democratic, reform-minded Yeltsin and an undemocratic anti-reform, Communist-dominated legislature. There is some truth to this image. The most undemocratic forces in Russia—the hardline Communists and ultranationalists—are fierce enemies of Yeltsin. Khasbulatov, the parliamentary leader, appears to be aligning himself with this bloc. If the United States has to choose between supporting Yeltsin or Khasbulatov, Yeltsin is the obvious choice. Nonetheless, the good-versus-evil characterization of the multifaceted crisis is an oversimplification and obscures several important facts. The Yeltsin-Gaidar economic reform program of 1992, although strongly endorsed by the IMF and virtually all western governments, caused a great deal of misery and aroused strong opposition—even among many Russian democrats who unquestionably want a market economy. Yeltsin's often abrasive and uncompromising style antagonized some of his democratic allies and supporters in the legislature, driving them into opposition. Hence, not all opponents of Yeltsin are necessarily opponents of democracy and market reform.

Because Yeltsin's draft constitution puts so much power in the hands of the president, some knowledgeable observers caution that U.S. interests may not be best served by a total and unconditional victory by Yeltsin and his supporters. A compromise on some of the constitutional issues might be preferable. This would not constitute a repudiation of Yeltsin's leadership, nor call into question his notable achievements in democratic and market reform and his cooperative foreign policies that won such widespread approbation in the West. Yeltsin will remain President of Russia regardless of how the differences between the two constitutional drafts are resolved. The main issue here for the United States is the creation of a post-Soviet political system that is democratic and stable. This is not only for philosophical or humanitarian reasons, but also because a democratic, stable Russia is more likely to be peaceful and cooperative with the West.

The basis of the present Russian Constitution is the 1978 Brezhnev-era rewrite of an earlier Stalinist constitution. It has been amended some 180 times since 1991. It contains numerous unreconciled contradictions. Nearly all serious observers agree that Russia needs a new constitution.

Under Gorbachev, the Congress of Peoples Deputies (CPD), the restructured and partially democratized upper tier of the legislature, was enshrined in the Constitution as the paramount political organ of state. After Russian voters in a 1991 referendum approved Yeltsin's plan to create a directly elected presidency, the Russian CPD amended the Constitution to create the office of president, which was defined as the head of state, the head of the executive branch, and highest government official. But the legislature did not change those articles of the Constitution that defined the CPD as the paramount political organ. This contradiction underlies the clash between the executive and legislature. The Constitution also retains many Soviet-era articles that guarantee socialist style economic and social rights to the populace. Another anomaly is that the Communist majority in the Russian CPD refused to delete language in the Constitution concerning the U.S.S.R. in December 1991.

In assessing the two rival drafts, it is important to avoid the mistake of seeing them merely as an extension of the struggle between Yeltsin and the anti-reform CPD. Because the legislature prefers the Constitutional Commission (CC) draft to Yeltsin's does not mean that the CC draft is fundamentally undemocratic. Yeltsin is the Chairman of the Constitutional Commission. His representatives made important contributions to its draft. Oleg Rumyantsev, the day-to-day head of the commission, is a democrat. The CC draft is fundamentally democratic and a major improvement over the present constitution. So is the Yeltsin draft. Both are flawed.

Historically, tyranny tends to arise far more often from excessive executive power rather than a too-strong parliament. This has certainly been the case in Russia's tragic history of autocratic tsars and Communist dictators. It seems that Yeltsin and his advisors, in their zeal to overcome an anti-reform legislature, seek to endow the president with powers that they would find intolerable

if one of their opponents were elected president. Even some Yeltsin supporters criticize his proposed concentration of presidential power as excessive and dangerous. The CC draft too may be imperfect on this score, but it seems to come closer to providing the balance in separation of powers, with checks on those powers, that helps ensure democratic government.

For example, in the Yeltsin draft, the president is not only the head of state but the "guarantor of the constitution and of the rights and freedoms of the citizens." He "ensures the coordinated functioning and interaction of all state organs," and "is the arbiter in disputes between" branches of the government and between the central government and the republics and regions of the Russian Federation. The president appoints the prime minister, cabinet ministers, and other high officials. Only the prime minister is subject to parliamentary approval, and even that power is limited. If parliament twice rejects the president's choice for prime minister, he can dissolve parliament, order new parliamentary elections, and appoint an acting prime minister. The president can dissolve parliament for other reasons as well. Also, it is the president who schedules parliamentary elections. The Yeltsin draft further provides that the federal budget and laws on taxes, government borrowing, and spending bills that are part of the federal budget, can only be initiated by the president or the cabinet, not by the parliament. The president also has a full line-item veto. The Constitutional Commission draft, in contrast, seeks to maintain a more even balance between the two branches.

On the other hand, the CC draft retains some social democratic and/or populist principles and provisions which, despite their appealing ring, could, if enforced in the traditional Soviet spirit, be obstacles to the development of a free market economy. It declares, for example, that: "The basis of the economy of the Russian Federation is the social market economy . . . [in which] social benefit is assured]." "The concentration of land and other natural objects with an owner or possessor above the limit established by law is prohibited." "The work force has the right to participate in control of the affairs of the enterprise." "Unfair competition is banned." The Yelsin draft is free of most such provisions and guarantees unrestricted private ownership of land and other property.

There is no consensus in the United States as to how much decentralization is enough in the new Russian constitution. Nor is there a fundamental difference between the rival drafts on this issue. Both drafts are criticized by representatives of Russia's minority nationalities and diverse regions for excessive centralization, but Yeltsin's draft, with its powerful president, is more likely to promote centralization, while the more even balance between the branches in the CC draft may provide the republics and regions with more room for maneuver.

Yeltsin and his supporters, who now appear to hold the upper hand, remain vague on how a new constitution is to be adopted. During the course of the Constitutional Assembly, they say, it will become clear whether the Assembly itself will adopt the constitution, or if adoptions should be accomplished by referendum, by the present legislature, or by a newly elected parliament.

U.S. interests may be best served by a compromise outcome that combines the best elements of the rival drafts and provides a strong consensus and political legitimacy in its adoption. An unconditional victory by either side would seem less desirable from the U.S. perspective, but perhaps not as negative an outcome as continued deadlock, which holds the prospects of serious political and social instability.

UTAH SCHOOLS AND LANDS IMPROVEMENTS ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 94, S. 184, regarding a land exchange in Utah, that the committee amendment be agreed, and the bill, as amended, be deemed read three times, passed and the motion to reconsider laid upon the table; that any statements relative to this bill appear in the RECORD at the appropriate place.

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

So the bill (S. 184), as amended, was deemed read three times and passed, as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Utah Schools and Lands Improvement Act of 1993".

SEC. 2. UTAH-NAVAJO LAND EXCHANGE.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately thirty-eight thousand five hundred acres of surface and subsurface estate, and approximately an additional nine thousand five hundred areas of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, comprising approximately five acres more or less, together with all improvements thereon, is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, Range 69 East, lots 5, 6, 7, 9, , and 11, and 14 of section 34.

(2) No part of the lands referred to in paragraph (1) shall be used for gaming or any related purpose.

SEC. 4. IMPLEMENTATION.

The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United States title to the school and institutional trust lands by the State of Utah within units of the National Forest System, comprising approximately seventy-six thousand acres as depicted on a map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah located within all units of the National Park System, comprising approximately eighty thousand acres, located within the State of Utah on the date of enactment of this Act.

(b) STATUS.—(1) Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park System, and shall be subject to all laws and regulations applicable to that unit of the National Park System.

(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, compensate the State of Utah for the fair market value of five hundred eighty and sixty-four one-hundredths acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—Within thirty days after enactment of this Act, the Secretary of the Interior shall transmit to the State of Utah a list of lands, or interests in lands, within the State of Utah for transfer to the State of Utah in exchange for the state lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, or interests therein:

(1) Blue Mountain Telecommunications Site, fee estate, approximately six hundred and forty acres.

(2) Beaver Mountain Ski Resort site, fee estate, approximately three thousand acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort" dated September 16, 1992.

(3) The unleased coal located in the Winter Quarters Tract.

(4) The unleased coal located in the Crandall Canyon Tract.

(5) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) Tract.

(6) The unleased coal located in the Cottonwood Canyon Tract.

(7) The unleased coal located in the Soldier Creek Tract.

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in subsection (a), the Secretary of the Interior shall offer to the State of Utah a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan of reclamation, were in production, and were not under administrative or judicial appeal.

(2) No offer under this subsection shall be for royalties aggregating more than 50 per centum of the total appraised value of the State lands described in sections 2, 3, 5, and 6.

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties under this section exceeding $12,500,000 annually.

(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than that the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of December 31, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands, to the extent consistent with other applicable laws and regulations.

SEC 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than ninety days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall provide for an appraisal of the lands or interests therein involved in the exchanges authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the uniform appraisal standards for Federal land acquisition.

(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after two years from the date of enactment of this Act, the parties have not agreed upon the final terms of some or all of the exchanges authorized by this Act, including the value of the lands involved in some or all of such exchanges, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(2) No action provided for in this subsection may be filed with the Court sooner than two years and later than five years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with the applicable laws and rules.

(c) ADJUSTMENT.—If the State shares revenue from the selected Federal properties, the value of such properties shall be the value otherwise established under this section, less the percentage which represents the Federal revenue sharing obligation, but such adjustment shall not be considered as reflecting a property right of the State of Utah.

(d) INTEREST.—Any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or interests in lands and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in sections 2, 3, 5, and 6.

(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title, and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Secretary shall reserve to the United States all remaining right, title, and interest of the United States.

(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to such rights in connection with an exchange under this Act.

(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to all school and institutional trust lands described in sections 2, 3, 5, and 6 of this Act. Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place within sixty days following agreement by the Secretary of the Interior and the Governor of the State of Utah, or entry of an appropriate order of judgment by the District Court.

(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

(c) CONDITIONS.—(1) With respect to the lands and interests described in section 7, enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests.

SEC. 10. LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Natural Resources of the United States House or Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appropriate agencies of the Department of the Interior and Department of Agriculture.

(b) PILT.—Section 6902(b) of title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.".

(c) INTENT.—The lands and interests described in section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent act of Congress. It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to assure that counties within the State are treated equitably as a result of this exchange.

(d) COSTS.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

(e) DEFINITION.—As used in this Act, the term (1) "School and Institutional Trust Lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act; and (2) "Secretary" means the Secretary of the Interior; unless specifically defined otherwise.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

THE UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

Mr. HATCH. Mr. President, I rise today to urge the full Senate to pass S. 184, the Utah Schools and Lands Improvement Act of 1993, which has been favorably reported by the Senate Energy and Natural Resources Committee. I am pleased to be the prime sponsor of this legislation along with my colleague, Senator BENNETT.

The effect of S. 184 will be to exchange approximately 200,000 acres of State lands located within National Forests, National Parks, and the Navajo and Goshute Indian reservations for Federal lands, or interest in certain Federal lands, which are currently producing a revenue stream or royalty. The income from these lands will be

deposited in the Utah school trust fund.

The total amount to be received by Utah will be determined once the State's lands are appraised. In addition, as negotiated last year by House and Senate Members, the bill includes a provision that allows the Federal Government to offer the State a portion of the royalties now received by the United States from certain Federal geothermal, oil, gas, or other mineral interests.

This bill was carefully crafted last year by the former Governor of Utah, Norm Bangerter, who undertook the task of effectuating a long-awaited and strongly desired land exchange between the State of Utah and the U.S. Government. The bill was introduced in the Senate last year by myself and our former colleague, Senator Garn, although it unfortunately did not make it into public law before the 102d Congress adjourned sine die.

This proposal benefited throughout its development from the input of a broadly based consortium of Utahns interested in advancing education, promoting Utah's economic vitality, and protecting the environment. Organizations participating on the State steering committee included Utah's Parent Teacher Association, the Utah State Land Board, the Utah State Office of Education, and several environmental groups. The ability of this committee to work together to fashion this solution to an educational funding problem that has plagued Utah for years is a tribute to the can-do spirit that exists in my State.

I want to express my sincere appreciation to all the members of the Senate Energy and Natural Resources Committee for their support of this measure. In particular, Senators JOHNSTON, BUMPERS, and WALLOP have shown great understanding on this issue and have helped to expedite its passage. Hearings were scheduled early in the session and accommodated the schedules of many Utahns interested in this issue, including our current Utah Governor Mike Leavitt who was able to testify on the bill's behalf. On behalf of all Utahns, I want to thank the Energy Committee for recognizing the importance of this legislation to Utah's school children and for keeping their commitment to move this legislation expeditiously.

I am also appreciative of their counterparts in the House especially Representative BRUCE VENTO. Mr. VENTO's Subcommittee on National Parks, Public Lands and Forests has already held a hearing on H.R. 677, the House companion to S. 184, and I hope that House subcommittee will act as quickly as the Senate subcommittee.

I truly appreciate the efforts of all those involved, who understand this measure is necessary to infuse some badly needed funds into Utah's educational system. This bill will correct a serious problem that has actually existed for decades. The lands set aside for the Utah school trust fund when Utah joined the Union have been enveloped over many years by protected Federal lands, making the trust lands less productive as a source of income for our schools.

The failure of our State school lands to produce substantial income, which is the situation now, is a severe hindrance to educational reforms and opportunities for Utah children. S. 184 corrects this situation—not in a way that everyone would consider perfect, but in a way that takes into consideration the myriad of concerns that are raised when dealing with public land issues and in a way that gets the job done.

S. 184 seeks a value for value exchange so that the Federal Government, the State of Utah, and its school children, are treated fairly. Utah and its school districts are struggling with the financial burden of educating the growing population of school-age children in the State. The citizens of Utah are not asking for a handout or for something to which they are not entitled. We are asking the Congress to help us remedy a situation to which it is a party—which it helped to create in 1986. Today, the Senate will take a huge step toward resolving this matter.

I urge all Senators to support S. 184.

REREFERRAL OF A BILL—S. 1120

Mr. FORD. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. 1120, relating to the Cadet Nurse Corps, and that the bill be referred to the Committee on Governmental Affairs.

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

RURAL ELECTRIFICATION LOAN RESTRUCTURING ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1167, the Rural Electrification Loan Restructuring Act of 1993, reported earlier by the Senate Agriculture Committee; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; further that any statements relating to this matter appear in the RECORD at the appropriate place.

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

So, the bill (S. 1167) was deemed read three times and passed, as follows:

S. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Loan Restructuring Act of 1993".

SEC. 2. ELECTRIC AND TELEPHONE LOAN PROGRAMS.

(a) LOAN PROGRAMS UNDER THE RURAL ELECTRIFICATION ACT OF 1936.—

(1) INSURED LOAN PROGRAMS.—Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

(A) by striking subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by inserting after subsection (b) (as so redesignated) the following new subsections:

"(c) INSURED ELECTRIC LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(B) SEVERE HARDSHIP LOANS.—In addition to hardship loans that are made under subparagraph (A), the Administrator may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Administrator, the applicant has experienced a severe hardship.

"(C) LIMITATION.—The Administrator may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(2) MUNICIPAL RATE LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

"(B) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

"(I) the interest rate determined by the Administrator to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) that is based on the current market yield on outstanding municipal obligations; plus

"(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

"(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

"(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

"(ii) MAXIMUM RATE.—The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

"(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

"(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

"(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(C) LOAN TERM.—

"(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

"(ii) MAXIMUM TERM.—

"(I) APPLICANT.—The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

"(II) ADMINISTRATOR.—The Administrator may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

"(D) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

"(d) INSURED TELEPHONE LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

"(i) The average number of subscribers per mile of line in the proposed service area of the applicant is not more than 4.

"(ii) The applicant is capable of producing net income or margins, after interest payments on the loan applied for, of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) AUTHORITY TO WAIVE TIER REQUIREMENT.—The Administrator may waive the requirement of subparagraph (A)(ii) in any case in which the Administrator determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

"(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

"(2) COST-OF-MONEY LOANS.—

"(A) IN GENERAL.—The Administrator may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3), and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(C) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Administrator shall—

"(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

"(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

"(D) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

"(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

"(A) APPROVAL.—If, not later than 180 days after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Administrator shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Administrator shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

"(B) REQUIREMENTS.—For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

"(i) The plan must provide for the elimination of party line service.

"(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

"(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

"(iv) The plan must provide for—

"(I) subscribers in rural areas to be able to receive through telephone lines—

"(aa) multiple voices;

"(bb) video images; and

"(cc) data at a rate of at least 1,000,000 bits of information per second; and

"(II) the proper routing of information to subscribers.

"(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

"(vi) The plan must provide for such additional requirements for service standards as may be required by the Administrator.

"(C) FINALITY OF APPROVAL.—

"(i) IN GENERAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding subsection (c)(1)(A)(iii), subsection (c)(2)(A)(iii), and section 408(b)(4)(C), the Administrator and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Administrator if the loan is made less than 1 year after the Administrator has adopted final regulations implementing subsection (c)(3).".

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of such Act (7 U.S.C. 948) is amended—

(A) in subsection (a), by striking ", (2)" and all that follows through "408 of this Act," and inserting ", (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service,"; and

(B) in subsection (b)—

(i) by striking paragraph (4) and inserting the following new paragraph:

"(4) The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

"(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(B) The applicant is capable of producing net income or margins, after interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(C) The Administrator has approved, under section 305(d)(3), a telecommunications modernization plan for the State in which the applicant is located, and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.";

(ii) in paragraph (8)—

(I) by inserting "(A)" after "(8)";

(II) by striking "if such prepayment is not made later than September 30, 1988" and inserting "except for any prepayment penalty provided for in a loan agreement entered into before the date of enactment of the Omnibus Budget Reconciliation Act of 1993"; and

(III) by adding at the end the following new subparagraph:

"(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding."; and

(iii) by adding at the end the following new paragraphs:

"(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

"(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

"(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

"(10) On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2).".

(3) FUNDING.—Section 314 of such Act (7 U.S.C. 940d) is amended to read as follows:

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

"(a) DEFINITION OF ADJUSTMENT PERCENTAGE.—As used in this section, the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

"(b) FISCAL YEARS 1994 THROUGH 1998.—In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Administrator such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

"(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(2) ELECTRIC MUNICIPAL RATE LOANS.—For loans under section 305(c)(2)—

"(A) for fiscal year 1994, $600,000,000; and

"(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2)—

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(c) FUNDING LEVELS.—The Administrator shall make insured loans under this title for the purposes, in the amounts, and for the periods of time specified in subsection (b), as provided in advance in appropriations Acts.

"(d) AVAILABILITY OF FUNDS FOR INSURED LOANS.—Amounts made available for loans under section 305 are authorized to remain available until expended.".

(4) MISCELLANEOUS AMENDMENTS.—

(A) Section 2 of such Act (7 U.S.C. 902) is amended—

(i) by inserting "(a)" before "The Administrator";

(ii) by striking "telephone service in rural areas, as hereinafter provided;" and inserting "electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs;"; and

(iii) by adding at the end the following new subsection:

"(b) Not later than January 1, 1994, the Administrator shall issue interim regulations to implement the authority contained in subsection (a) to make loans for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs. If the regulations are not issued by January 1, 1994, the Administrator shall consider any demand side management program that is approved by a State agency to be eligible for the loans.".

(B) Section 4 of such Act (7 U.S.C. 904) is amended by inserting after "central station service" the following: "and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management and energy conservation programs".

(C) Section 13 of such Act (7 U.S.C. 913) is amended—

(i) by inserting ", except as provided in section 203(b)," before "shall be deemed to mean any area"; and

(ii) by striking "city, village, or borough having a population in excess of fifteen hundred inhabitants" and inserting "urban area, as defined by the Bureau of the Census".

(D) Section 203(b) of such Act (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "5,000".

(E) Section 305 of such Act (7 U.S.C. 935) (as amended by subsection (a)(1)) is further amended—

(i) by striking "SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The" and inserting the following:

"SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.

"(a) IN GENERAL.—The"; and

(ii) in subsection (b), by striking "(b) Loans" and inserting "(b) INSURED LOANS.—Loans".

(F) Section 307 of such Act (7 U.S.C. 937) is amended by adding at the end the following new sentence: "The Administrator may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.".

(G) Section 406 of such Act (7 U.S.C. 946) is amended by adding at the end the following new subsection:

"(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the 'RTB Equity Fund').".

(H) Section 18 of such Act (7 U.S.C. 918) is amended—

(i) by inserting "(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—" before "The Administrator"; and

(ii) by adding at the end the following new subsections:

"(b) NO LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

"(c) CONSULTANTS.—

"(1) IN GENERAL.—To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the agency pursuant to the terms of outstanding loan or security instruments or otherwise, the Administrator may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

"(2) CONFLICTS OF INTEREST.—The Administrator shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other potential conflicts of interest in the outcome of the application of the borrower.

"(3) PAYMENT OF COSTS.—The Administrator may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Administrator.

"(4) CONTRACTS, GRANTS, AND AGREEMENTS.—The Administrator may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section without regard to any requirement for competition, section 3709 of the Revised Statutes (41 U.S.C. 5) and section 3324 of title 31, United States Code.

"(5) USE OF CONSULTANTS.—Nothing in this subsection shall limit the authority of the Administrator to retain the services of consultants from funds made available to the Administrator or otherwise.".

(I) Title III of such Act is amended by inserting after section 306B (7 U.S.C. 936b) the following new sections:

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

"For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this Act for a loan, loan guarantee, or lien accommodation under this title, a default by a borrower from which the

distribution borrower purchases wholesale power shall not—

"(1) be considered a default by the distribution borrower;

"(2) reduce the eligibility of the distribution borrower for assistance under this Act; or

"(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

"SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO ELECTRIC BORROWERS.

"The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.".

(b) EXPANDED ELIGIBILITY FOR LOANS FOR WATER AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the first sentence the following new sentence: "The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.".

(c) RURAL ECONOMIC DEVELOPMENT.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended by adding at the end the following new subsection:

"(g) RURAL ECONOMIC DEVELOPMENT.—

"(1) IN GENERAL.—A borrower of a loan or loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall be eligible for assistance under all programs administered by the Rural Development Administration.

"(2) PARTICIPATION.—The Administrator of the Rural Development Administration shall encourage and facilitate the full participation of borrowers referred to in paragraph (1) in programs administered by the Rural Development Administration.".

(d) REGULATIONS.—Not later than October 1, 1993, interim final rules shall be issued by—

(1) the Administrator of the Rural Electrification Administration in the case of amendments made by this section to programs administered by the Administrator; and

(2) the Administrator of the Rural Development Administration in the case of amendments made by this section to programs administered by the Administrator.

(e) CONTINGENT EFFECTIVE DATE.—This section and the amendments made by this section shall not become effective if section 1202 (as reported by the Committee on the Budget of the Senate) is enacted.

COMPLIMENT TO THE PRESIDING OFFICER

Mr. FORD. Mr. President, let me compliment the Chair, if I might.

The best place I found to understand the proceedings of the Senate has been sitting in the Chair presiding over the Senate to keep order, to recognize those as they ask to be recognized, to be sure that the leadership is recognized before others, that the amendments come up.

The occupant of the Chair has now been there since 1 a.m. I suspect it has been a long day and a long night when he arrived in the Chair. So he has now been there 2½ hours. It is now 3:30 in the morning.

So, I just want to compliment the Presiding Officer, that he did an additional hour during yesterday, if I can use that term. He put in 3½ hours in the last 24 hours. I did want to compliment the occupant of the chair and thank him for his duty today.

FAST-TRACK TRADE PROCEDURES—S. 1003

Mr. FORD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time turn to the consideration of Calendar No. 104, S. 1003, a bill to provide fast-track trade procedures, except that the Republican leader may vitiate this agreement at any time on Tuesday, June 29; I further ask unanimous consent that S. 1134 be returned to the calendar.

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

COMMENDING THE PRESIDING OFFICER AND STAFF

Mr. SIMPSON. Mr. President, I, too, wish to commend the occupant of the Chair. We all have had that duty, as we serve in the Senate. It is a difficult enough duty on a light day, but when there are the rollcall votes that have come before you in the last 2½ or 3 hours, I certainly do commend you.

And I want to commend the professional staff of the U.S. Senate and these pages and all of the people that make this run so smoothly. It is a very difficult situation. Tempers get a bit short.

And I was just reflecting to my friend from Kentucky that this is the 117th anniversary of Custer's last stand.

Mr. FORD. You were?

Mr. SIMPSON. Is that not appropriate?

Mr. FORD. That is appropriate. Is this your last stand?

Mr. SIMPSON. No; I am just reflecting.

June 25, 1876. And it has been looking like that today, as we have had a little combat from time to time.

I enjoy working with the assistant leader, even though certainly some of his votes are highly questionable in my mind; but, nevertheless, a delightful gentleman to do legislative work with, and I have always enjoyed that very much.

Mr. FORD. Mr. President, I appreciate the kind remarks of my friend and colleague and the assistant Republican leader.

I am not sure that I have heard for the last 2 or 3 days, but it is a different philosophy or something similar to that.

And so, even though we like each other, we get along well, we work well together, it seems that we just do not see things eye to eye.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Calbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2403. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

At 6:32 p.m., a message from the House of Representatives was delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 80. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor Unit, the Big Sandy Corridor Unit, and the Canyonlands Unit.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2403. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and

were referred or ordered to lie on the table as indicated:

POM-142. A resolution adopted by the Legislature of the State of Florida; to the Committee on Finance.

"SENATE MEMORIAL NO. 1878

"Whereas government has an affirmative obligation to equally treat each of its citizens in similar situations, and

"Whereas the Social Security Administration provides benefits based on contributions from working Americans, and

"Whereas current law creates a "notch" in the system whereby Americans born before 1917 and after 1926 are treated more favorably than those born within the "notch," and

"Whereas each individual now receiving benefits has contributed to the Social Security System as required by law during his or her working years, and

"Whereas under current law individuals who have contributed equally to the Social Security System, but happen to be born as little as one day apart, could receive benefits differing by as much as $1,200 per year, and

"Whereas more than fifty percent of our veterans who fought bravely for this nation during World War II were born within this "notch," and

"Whereas over 900,000 of those individuals born within this "notch" are residents of the great State of Florida, and

"Whereas the impact of equal treatment for each of these citizens would greatly benefit Florida's economy, Now, Therefore *be it resolved* by the Legislature of the State of Florida."

POM-143. A resolution adopted by the House of the Legislature of the State of Hawaii; to the Committee on Finance.

"H.R. NO. 338

"Whereas, Title 19 of the Social Security Act provides that the states shall receive a percentage of matching funds to assist in the payment of certain health care services; and

"Whereas, Hawaii relies on the assistance the federal government provides through Title 19, to help pay for health care costs in Hawaii and under the present system can predict what the federal matching assistance percentage will be and what amounts will be matched by the federal government; and

"Whereas, the State of Hawaii is proposing to enact a health care provider tax that will work in conjunction with Title 19, as it operates to date, to improve the health care cost situation; and

"Whereas, President Clinton has stated that he is proposing to reduce the federal dollar assistance to the states for health care costs; and

"Whereas, the states need assurance that the plans each state makes to remedy the health care situation that are based on the interaction with Title 19 will not be foiled by the disruption of those provisions in the law; now, therefore,

"*Be it resolved* by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, that the United States Congress is requested to give assurance to the states that the federal matching assistance percentage and the amounts received as federal matching funds received by the states from the federal government under Title 19 of the Social Security Act will not be reduced; and

"*Be it further resolved* that certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and the members of Hawaii's congressional delegation."

POM-144. A resolution adopted by the House of the General Assembly of the State of Illinois; to the Committee on Finance.

"HOUSE RESOLUTION NO. 109

"Whereas, The provisions set forth in 42 U.S.C. 415 for determining the primary insurance amount of a person receiving Social Security were amended in 1977 by Public Law 95-216; and

"Whereas, That amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas, Persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies", receive lower benefits than persons who were born before that time; and

"Whereas, The payment of benefits under the Social Security System is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas, The discrimination between persons receiving benefits is totally inequitable and contrary to the principles of justice and fairness; and

"Whereas, The Social Security Trust Fund as adequate reserves to eliminate this gross inequity; therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois*, That Congress is hereby urged to enact legislation to eliminate inequities in the payment of Social Security benefits to persons based on the year in which they initially become eligible for benefits; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Illinois congressional Delegation."

POM-145. A resolution adopted by the House of the General Assembly of the State of Iowa; to the Committee on Finance.

"HOUSE RESOLUTION NO. 5

"Whereas, the production of agricultural commodities is the foundation of this state's economy, providing food and fiber vital to the nation's welfare; and

"Whereas, the State of Iowa, one of the major agricultural states in the United States, is a leading producer of feed grains and livestock; and

"Whereas, there exists a serious problem in this State regarding the ability of nonestablished farmers to acquire agricultural land, agricultural improvements, and depreciable agricultural property required to enter farming; and

"Whereas, these conditions result in a loss in population, unemployment, and a movement of persons from rural communities to urban areas, and are accompanied by added costs to communities for creation of new public facilities and services; and

"Whereas, one major cause of this condition has been recurrent shortages of funds in private channels and the cost of borrowing money by beginning farmers assuming a large debt in order to capitalize agricultural operations, which have made the sale and purchase of agricultural land to beginning farmers a virtual impossibility in many parts of this State; and

"Whereas, studies conducted by Iowa State University indicate that only 5 percent of Iowa farmers are under age 30, that the average age of farmers is 53 years, and that nearly 40 percent of farmers are 55 years old or older; and

"Whereas, the State of Iowa has established a Beginning Farmer Loan Program which has been vital to the effort to attract more young people into farming by providing that the Iowa Agricultural Development Authority, an agency of the Iowa Department of Agriculture and Land Stewardship, may assist in cooperating with lending institutions to provide financing to beginning farmers for the acquisition of agricultural land, improvements, and agricultural property; and

"Whereas, since the establishment of the program, the number of loans by the Iowa Agricultural Development Authority has steadily increased from seven loans in 1981 to a record 287 loans in 1991; and

"Whereas, since 1981, the Authority has made 1,385 loans on approximately 120,000 acres of land, and other agricultural projects amounting to $120,073,028 in loans with no obligation by the State or federal government to guarantee payment of the loans in case of default; and

"Whereas, the Beginning Farmer Loan Program is supported by small issue private activity bonds ("Aggie Bonds") which are exempt from federal income tax; and

"Whereas the United States Congress has expressed support for the Iowa Beginning Farmer Loan Program by continually extending the expiration of the federal tax exemption vital to the future of the program; and

"Whereas, legislation enacted in 1992 by the Congress of the United States which included provisions extending the effectiveness of the exemption was vetoed because of unrelated provisions contained in the legislation; and

"Whereas, since July 1, 1992, the Iowa Agricultural Development Authority has been prohibited from closing 128 new loan applications for beginning farmers totaling $16,645,346, desperately needed in order to continue this successful program vital to ensure the transition to a new generation of farmers; and

"Whereas, in order to support the program as a dependable source of low-income financing for beginning farmers it is essential to provide for the efficient administration of the program through stability and continuity in federal law; and

"Whereas, the immediate passage and enactment of legislation by the United States Congress and the President of the United States to support the Iowa Beginning Farmer Program is unanimously supported by the Agriculture Committee of the Iowa House of Representatives, including the Honorable Representative Russell J. Eddie, Chairperson; the Honorable Representative James A. Meyer, Vice Chairperson; the Honorable Representative Daniel P. Fogarty, Ranking Member; the Honorable Representative Bill Bernau; the Honorable Representative Clifford Branstad; the Honorable Representative Barry Brauns; the Honorable Representative Dwight Dinkla; the Honorable Representative John Greig; the Honorable Representative Sandra H. Greiner; the Honorable Representative James Hahn; the Honorable Representative Mark Henderson; the Honorable Representative Hubert Houser; the Honorable Representative Ralph Klemme; the Honorable Representative Deo Koenigs; the Honorable Representative Dennis May; the Honorable Representative Dolores M. Mertz; the Honorable Representative

Norman Mundie; the Honorable Representative David Osterberg; the Honorable Representative Richard Vande Hoef; the Honorable Representative Keith Weigel; and the Honorable Representative Jerry Welter; now therefore.

"Be it resolved by the House of Representatives, That the Congress of the United States enact with all possible urgency legislation permanently extending the effectiveness of the exemption from federal taxation of the small issue private activity bonds used to support loans made to beginning farmers under Iowa's Beginning Farmer Loan Program; and

"Be it further resolved, That copies of this resolution be submitted by the Chief Clerk of the House to the Honorable Terry E. Branstad, Governor; the Honorable Dale M. Cochran, Secretary of Agriculture; and Mr. William Greiner, Executive Director of the Iowa Agricultural Development Authority; and

"Be it further resolved, That copies of this resolution be submitted by the Chief Clerk of the House to the Honorable William J. Clinton, President of the United States; the Honorable Albert Gore, Jr., President of the United States Senate; the Honorable Thomas S. Foley, Speaker of the United States House of Representatives; the Honorable Senator George J. Mitchell, Senate Majority Leader; the Honorable Senator Robert Dole, Senate Minority Leader; the Honorable Congressman Richard A. Gephardt, House Majority Leader; the Honorable Congressman Robert H. Michel, House Republican Leader; the Honorable Senator Daniel Patrick Moynihan, Chairman, Senate Finance Committee; the Honorable Congressman Dan Rostenkowski, Chairman, House of Representatives Committee on Ways and Means; and Iowa's congressional delegation.

"We, Harold Van Maanen, Speaker of the House and Elizabeth Isaacson, Chief Clerk of the House, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives of the Seventy-fifth General Assembly, First Regular Session."

POM-146. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 22

"Whereas, changes in federal law enacted as part of the Omnibus Budget Reconciliation Act of 1990 (OBRA of 1990) require the state to treat election officials and election workers as full-time employees of the state, thereby requiring that either they be included in the state retirement system or that social security tax be paid on the income earned; and

"Whereas, this change in the federal law costs the state an estimated five hundred thousands dollars annually and has reduced the amount of pay received by election commissioners and election workers due to the withholding of FICA taxes; and

"Whereas, the withholding of FICA taxes and low pay were two of the five most often cited reasons for a shortage of election workers in a statewide survey of clerks of court performed by the Louisiana Department of Election and Registration; and

"Whereas, the election commissioners and election workers perform a vital role in the democratic process, ensuring that federal, state, and local elections are conducted honestly, fairly, and openly.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States, and in particular the members of the Louisiana congressional delegation, to repeal provisions of the Omnibus Budget and Reconciliation Act related to election officials and election workers or to enact any other measures necessary to exempt such persons from requirements for payment of social security tax for work performed on election day.

"Be it further resolved that the Louisiana Legislature does hereby request the members of the Louisiana congressional delegation to inform the Subcommittee on Elections of the House and Governmental Affairs Committee of the Louisiana House of Representatives and the Committee on Senate and Governmental Affairs of the Louisiana Senate of the status of such legislation on a periodic basis.

"Be it further resolved that copies of this Resolution be transmitted to the clerk of the House of Representatives and the secretary of the Senate of the Congress of the United States and to each member of the Louisiana congressional delegation."

POM-147. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 219

"Whereas the Department of Health and Hospitals administers the Medical Vendor Program (Medicaid), a federal and state entitlement program which provides payments for medically necessary health care services to all persons deemed eligible for such services; and

"Whereas the number of persons eligible for services under this program has increased from 673,016 in Fiscal Year 1988-1989 to 877,797, in Fiscal Year 1991-1992; and

"Whereas state and federal funding under the Medicaid program has increased from $905 million in Fiscal Year 1987-1988 to an estimated $3.7 billion in Fiscal Year 1992-1993; and

"Whereas the federal government allows for higher payments to be made to hospitals that serve a "disproportionate share" of low-income individuals in order to compensate those hospitals for the high cost of care for indigents and Medicaid patients; and

"Whereas the state of Louisiana has a long tradition of providing state funding for indigent health care services through the charity hospital system and until only recently has not been compensated by the federal government for that indigent care; and

"Whereas the state of Louisiana has spent over eight hundred million dollars in state funds for the charity hospital system since Fiscal Year 1988; and

"Whereas the state of Louisiana has only used disproportionate share payments for its health care system; and

"Whereas disproportionate share payments to public and private hospitals in this state are projected at $1.2 billion and a substantial portion of these payments are used to help finance the charity hospital system and its affiliated indigent health care programs, and any reduction in disproportionate share payments would exacerbate an already severe state budget crisis due to a revenue shortfall for the state estimated at $618 million for Fiscal Year 1993-1994.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to take appropriate steps to cause the Health Care Financing Administration to take necessary action to maintain and retain the disproportionate share program and that no changes be made in the federal law as of May 4, 1993 and that the amendment to the disproportionate share law proposed by Congressman Waxman be rejected as it would cause irreparable harm to the state health care system in Louisiana.

"Be it further resolved that copies of this Resolution be transmitted to the president and secretary of the United States Senate, the clerk and speaker of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-148. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION NO. 2

"Whereas the provisions of 42 U.S.C. 415 for determining the primary insurance amount of a person receiving social security were amended in 1977 by P.L. 95-216; and

"Whereas that amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies", receive lower benefits than persons who were born before that time; and

"Whereas the payment of benefits under the social security system is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas the discrimination between persons receiving benefits is totally inequitable and contrary to the principles of justice and fairness; and

"Whereas the Social Security Trust Fund has adequate reserves to eliminate this gross inequity.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to eliminate inequities in the payment of social security benefits to persons based on the year in which they initially become eligible for such benefits.

"Be it further resolved that the Legislature of Louisiana requests that these inequities be eliminated without reducing the benefits of persons who were born before 1917.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-149. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance.

"JOINT RESOLUTION

"We your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President and the Congress of the United States, as follow:

"Whereas effective July 1, 1992, federal law eliminated the tax-exempt status for small-issue industrial development bonds sold by state to provide capital at reduced interest rates for establishment and expansion of manufacturing enterprises; and

"Whereas the availability of small-issue industrial development bonds is critical to our State's economic development, providing expansion, diversification of the manufacturing sector and quality jobs, protecting industry from foreign competition and encouraging productivity, capacity and quality critical to the long-term stability of the State's manufacturing base; and

"Whereas, in the past 8 years, small-issue industrial development bonds have resulted in investments of approximately $500,000,000 in the State and the retention or creation of over 35,000 jobs and have enhanced the tax bse of municiplalities throughout the State; and

"Whereas, issuance of small-issue industrial development bonds for United States manufactuerers is an important investment that protects and strenghtens manufacturing entities, provides quality jobs, helps to ensure that jobs are retained in the United States and not exported overseas and assists in reducing the trade deficit; now, therefore, be it

"*Resolved:* That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to take action to enact legislation that will permanently extend the authority to issue small-issue bonds under Section 144 of the Internal Revenue Code of 1986, as amended, so that small-issue industrial development bonds will again be available; and be it further

"*Resolved:* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representative of the Congress of the United States and to each Member of the Maine Congressional Delegation.

POM-150. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 22

"Whereas changes in federal law enacted as part of the Omnibus Budget Reconciliation Act of 1990 (OBRA of 1990) require the state to treat election officials and election workers as full-time employees of the state, thereby requiring that either they be included in the state retirement system or that social security tax be paid on the income earned; and

"Whereas this change in the federal law costs the state an estimated five hundred thousand dollars annually and has reduced the amount of pay received by election commissioners and election workers due to the withholding of FICA taxes; and

"Whereas, the withholding of FICA taxes and low pay were two of the five most often cited reasons for a shortage of election workers in a statewide survey of clerks of court performed by the Louisiana Department of Elections and Registration; and

"Whereas, the election commissioners and election workers perform a vital role in the democratic process, ensuring that federal, state, and local elections are conducted honestly, fairly, and openly.

"*Therefore, be it resolved* that the Legislature of Louisiana does hereby memorialize the Congress of the United States, and in particular the members of the Louisiana congressional delegation, to repeal provisions of the Omnibus Budget and Reconciliation Act related to election officials and election workers or to enact any other measures necessary to exempt such persons from requirements for payment of social security tax for work performed on election day.

"*Be it further resolved* that the Louisiana Legislature does hereby request the members of the Louisiana congressional delegation to inform the Subcommittee on Elections of the House and Governmental Affairs Committee of the Louisiana House of Representatives and the Committee on Senate and Governmental Affairs of the Louisiana Senate of the status of such legislation on a periodic basis.

"*Be it further resolved* that copies of this Resolution be transmitted to the clerk of the House of Representatives and the secretary of the senate of the Congress of the United States and to each member of the Louisiana congressional delegation."

POM-151. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 47

"Whereas, Among the most important federal programs used to finance affordable housing in our state are the Low Income Housing Tax Credit and Mortgage Revenue Bonds; and

"Whereas, In authorizing tax credits for certain construction or rehabilitation of existing property to produce low-income rental housing, the Low Income Housing Tax Credit has been responsible for making thousands of rental apartments available to families and senior citizens with limited incomes; and

"Whereas, Through the issuance of tax exempt mortgage revenue bonds, thousands of qualified individuals and families have been able to purchase, improve, or rehabilitate homes; and

"Whereas, It has been the practice of the United States Congress to reauthorize these, as well as other tax breaks, one year at a time. In light of the vital importance of these tax credits in encouraging investment in affordable housing, the Congress should seriously consider enacting legislation to make them permanent; now, therefore, be it

"*Resolved by the House of Representatives* (the Senate concurring), That we hereby memorialize the United States Congress to enact legislation to permanently extend the Low Income Housing Tax Credit and Mortgage Revenue Bond programs; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-152. A concurrent resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Finance.

"HOUSE RESOLUTION NO. 132

"Whereas, Michigan and the nation now live in a global economy and trading beyond our borders is essential to our continued prosperity. Our citizens support the concept of free trade and fair trade. While our trading partners and capacities expand, it is essential to maintain the stability and integrity of our economy and government, both state and national; and

"Whereas, The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico, is designed to eliminate trade barriers between the three nations. This executive agreement will not take effect until the countries' respective legislative bodies, including the United States Congress, pass implementing legislation. In addition, once the implementing legislation is submitted to Congress by the President, it will be considered under "fast-track" rules that limit consideration to ninety legislative days and do not permit amendments; and

"Whereas, A number of serious economic, environmental, and legal questions have been raised with regard to the impact NAFTA will have on individual states and our federal system. One concern is whether NAFTA will have a negative impact on state economies and budgets through increased unemployment, an eroding tax base, and service cuts. The agreement could also seriously impede state legislative authority by prompting the enactment of a host of federal preemption laws. Many state environmental programs, such as recycling and waste reduction, clean air, pesticide control, and wildlife and natural resource protection laws, could be challenged as barriers to free trade. Moreover, if a state law were challenged under NAFTA, states would be precluded from a role in any dispute resolution process because only the federal government is a party to the agreement; and

"Whereas, The President and the United States Congress should develop a version of international trade that safeguards the constitutional and economic standing of the states even if this requires withholding NAFTA's submission to Congress. Indeed, it is vitally important that there be a full assessment of the economic, environmental, and legal impact on states before, not after, a "fast-track" decision on NAFTA is made: Now, therefore, be it

"*Resolved by the House of Representatives*, That we hereby call upon the President of the United States and the United States Congress to fully assess the economic, environmental, and legal impact of the North American Free Trade Agreement on the states before its implementation: And be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-153. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Finance.

"HJR 19

"Whereas, it is estimated that 145,000 Montanans and 37 million Americans are without health insurance, many while between jobs; many more people are underinsured because of the effects of rising health care costs and spending; and these rising health care costs are forcing employers to trim the level and availability of health care benefits to their employees; and

"Whereas, overuse of health care services for relatively small claims is one of the most significant causes of health care cost and spending increases; and currently, more than two-thirds of all insurance claims for medical spending are less than $3,000 per family per year in this country; and

"Whereas, in response to the runaway cost increases on health care spending in this country, the private sector has developed the concept of individual medical care savings accounts; this initiative is designed to ensure health insurance availability for Americans; and it is predicated on providing incentives to more efficiently use medical treatment, encourage competition, and reduce cost in the health care industry; and

"Whereas, through employer and employee-funded individual medical care savings account arrangements and reduced costs of

"*Now, Therefore, Be It Resolved by the Senate and the House of Representatives of the State of Montana:* That the Congress of the United States be urged to enact legislation swiftly and in good faith to enable Montanans and all Americans to establish individual medical care savings accounts.

"*Be It Further Resolved*, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and all members of the Montana Congressional Delegation."

POM-154. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance.

"JOINT RESOLUTION NO. 16

"Whereas, Nevada is one of the fastest growing states in the union; and

"Whereas, The continuous influx of persons into this state promotes a growing, health and diversified economy; and

"Whereas, Many persons who migrate into this state are retired and live on limited and fix incomes; and

"Whereas, Many of these persons retire to Nevada with the expectation of being exempt from any state income tax and have planned their finances accordingly; and

"Whereas, For many of these persons, the income that they earn from their pension, savings and other investments is barely sufficient to pay their expenses and offset inflation; and

"Whereas, Other states have enacted legislation that authorizes the imposition of an income tax on income from a pension that originates in those states, even if the person who earns the income resides in another state; and

"Whereas, As a result, many persons who have retired to Nevada are required to pay income tax imposed by other states on the income from their pension; and

"Whereas, These laws has placed an unexpected and often insurmountable financial burden on many of these persons; and

"Whereas, United States Representative Barbara Vucanovich has introduced a bill in the House of Representatives, H.R. 702 of the 103d Congress, 1st Session (1993), which would prohibit each state from imposing an income tax on the income from a pension of any person who is not a resident of that state; and

"Whereas, United States Senator Harry Reid has introduced a similar bill in the Senate, S. 235 of the 103d Congress, 1st Session (1993): Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly*, That the Nevada Legislature urges the Congress of the United States to pass H.R. 702 or S. 235 of the 103d Congress, 1st Session (1993), which would prohibit each state from imposing an income tax on the income from a pension of any person who is not a resident of that state: And be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit copies of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation: And be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-155. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance.

"JOINT RESOLUTION NO. 17

"Whereas, The rising costs of health care have increased the costs of providing adequate coverage to persons who are eligible for medical assistance under the Medicaid Program; and

"Whereas, Coordinated health care programs that provide medical services from a selected group of providers of medical care at fixed rates reduce the costs of medical care without affecting the quality of that care; and

"Whereas, The provisions of Title XIX of the Social Security Act do not allow states the discretion or flexibility to design and carry out comprehensive coordinated programs of health care that require recipients of Medicaid to enroll in such programs; and

"Whereas, Widespread participation in and utilization of coordinated programs of health care may only be achieved by requiring recipients of Medicaid to enroll in coordinated programs of health care; and

"Whereas, Before a recipient of Medicaid may be required to enroll in a coordinated program of health care, waivers of freedom of choice, statewide applicability and comparability of services must be obtained from the Health Care Financing Administration; and

"Whereas, It requires a significant amount of time and cost to apply for, justify and receive such waivers and involves extensive reporting to the federal authorities; and

"Whereas, A waiver of freedom of choice must be renewed every 2 years; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, Jointly*, That the Nevada Legislature hereby urges the Congress of the United States to enact an amendment to Title XIX of the Social Security Act allowing states greater flexibility in designing and carrying out coordinated programs of health care without having to obtain waivers of freedom of choice, statewide applicability and comparability of services from the Federal Government; and be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-156. A concurrent resolution adopted by the Legislature of the State of North Dakota relative to the proposed energy tax; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 3035

"Whereas, the United States Congress and the President are considering an increase in the federal motor fuel tax or enactment of a national energy tax to help reduce the nation's deficit; and

"Whereas, motor fuel is already one of the most heavily taxed commodities consumers buy; and

"Whereas, the federal deficit is a national problem that should not be addressed by taxes that apply only to the country's highway users and energy users; and

"Whereas, the nation's highway transportation system is largely the result of an effective state-federal partnership utilizing federal highway trust fund money from taxes paid by highway users; and

"Whereas, with growing congestion and heavy replacement costs for roads and bridges, additional highway user taxes for nonhighway purposes could seriously hamper federal and state abilities to meet highway needs; and

"Whereas, in addition to being inflationary, a large additional motor fuel or national energy tax for deficit reduction would cost thousands of jobs, reduce the gross national product, and reduce federal income tax revenues; and

"Whereas, increasing the federal motor fuel tax or creating a national energy tax for nonhighway purposes would seriously erode public support for the successful pay-as-you-go state-federal highway program; and

"Whereas, an increase in the motor fuel tax would fall hardest on the working poor and states like North Dakota that depend heavily on energy; and

"Whereas, for most people there are no practical alternatives to driving or energy use for business and heating; and

"Whereas, the public demands that deficit reduction be based on Congress effectively controlling federal spending and acquiring revenue through fair and equitable taxation;

"*Now, Therefore, Be It Resolved by the House of Representatives of North Dakota, the Senate Concurring Therein:*

"That the Fifty-third Legislative Assembly opposes the imposition of any additional federal excise tax on motor fuels or imposition of a national energy tax to help balance the federal budget and urges both the President and Congress to reject any such proposals; and

"*Be It Further Resolved*, That copies of this resolution be forwarded by the Secretary of State to the Secretary of the United States Department of Transportation, the chairman of the United States House of Representatives Committee on Public Works and Transportation, the chairman of the United States Senate Committee on Finance, the presiding officers of the United States Senate and House of Representatives, and to each member of the North Dakota Congressional Delegation."

POM-157. A resolution adopted by the Senate of the General Assembly of the State of Tennessee relative to Federal tax laws, policies and programs which have the effect of encouraging U.S. industries to relocate in foreign countries; to the Committee on Finance.

"HOUSE JOINT RESOLUTION NO. 530

"Whereas, schizophrenia, described by many as "the most devilish of mental illnesses," is a tragic and terrifying mental illness of hereditary and environmental origins that afflicts two to three million Americans; and

"Whereas, mental illness costs the nation $129 billion a year, and schizophrenia alone claims a disproportionate $50 billion of these expenses, nearly equal to the amount the federal government spent last year on all Medicaid grants; and

"Whereas, while this tormenting illness has been traditionally treated with drug therapies that often rendered the patient somewhat disabled, the emergence of a new wave of drug therapy has given other patients renewed hope for improved lives; and

"Whereas, more than half of the 20,000 schizophrenics who did not respond well to previous drug therapies have shown significant improvement with clozapine, a new drug therapy for the treatment of this devastating illness, and are able to, in some cases, enjoy a more self-sufficient life; and

"Whereas, the cost of clozapine may exceed $4,000 annually, and as much as $9,000 more for physician-monitored treatment, and many patients may have insufficient resources or insurance coverage to obtain this therapy; and

"Whereas, eligibility requirements for Medicaid coverage include certain income levels that may require a patient to "spend down" personal resources to obtain coverage for medical treatments, including drug therapy for mental illness; and

"Whereas, compliance with these personal income eligibility requirements may unnecessarily prolong the agony victims of schizophrenia must endure before obtaining drug therapy, such as clozapine; now, therefore, be it

"*Resolved* by the House of Delegates, the Senate concurring, That the Congress of the United States be memorialized to review current Medicaid income eligibility requirements to address the unique drug treatment needs of schizophrenics and other victims of mental illness; and, be it

"*Resolved further*, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Delegation to the United States Congress in order that they may be apprised of the sentiment of the General Assembly of Virginia."

POM-158. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia relative to Medicaid income eligibility requirements; to the Committee on Finance.

"SENATE RESOLUTION NO. 35

"Whereas, U.S. industries have been motivated by tax advantages and low-interest loans offered through the federal Agency for International Development (AID) to close or reduce their U.S. manufacturing operations and relocate their businesses to foreign countries; and

"Whereas, The federal government has spent more than $289 million in the past decade to help U.S. companies in the Caribbean basin; and

"Whereas, Among other things, this money paid for U.S. trade journal advertisements which mentioned 40-cent per hour labor in Central America; and

"Whereas, A study has revealed that AID has lured eleven (11) textile or apparel plants from Tennessee to Central America; a total of 2,211 Tennessee workers have lost their jobs and livelihoods as a result of these immoral practices; and

"Whereas, Included in this appalling total is Marlene Industries, which closed its Decaturville garment factory and moved to El Salvador, leaving some 306 people out of work; and

"Whereas, The company has also closed a second plant at Lexington, laying off an additional 150 workers; and

"Whereas, It is estimated that the misdirected policies of the AID program have resulted in the loss of some 15,432 jobs nationwide to foreign competition; and

"Whereas, It is insulting to American and Tennessee taxpayers that their hard-earned tax dollars are being used to relocate their very own jobs to foreign countries; now, therefore,

"*Be it Resolved by the Senate of the Ninety-Eighth General Assembly of the State of Tennessee*, That this Body hereby memorializes the President and the U.S. Congress to examine and consider the repeal of any federal tax laws, policies, regulations or programs which have the effect of encouraging U.S. industries to close or greatly reduce their U.S. manufacturing operations and relocate such operations in foreign countries.

"*Be it Further Resolved*, That an enrolled copy of this resolution be transmitted to the Honorable Bill Clinton, President of the United States, the Speaker and Clerk of the U.S. House of Representatives, the President and Secretary of the U.S. Senate, and to each member of the Tennessee Congressional delegation."

POM-159. A concurrent resolution passed by the House of Representatives of the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 6

"Whereas, federal mandates that impose costs on the states are increasing at an alarming rate, in terms of frequency as well as cost; and

"Whereas, the explosion of federally-mandated programs began during the latter half of the 1980s when the federal government, struggling with new spending priorities and a rapidly expanding federal budget deficit, chose to require the states to finance, administer, and implement these new and costly responsibilities; and

"Whereas, in 1990 alone, the federal government imposed at least twenty additional mandates on the states at an aggregate cost of more than $15 billion to the states; and

"Whereas, these mandates included requiring states to enforce new standards for smog and acid rain reduction, enforce new transportation requirements for hazardous waste, expand state Medicaid coverage for certain households and individuals, and enforce driver's license revocation requirements for certain drug offenses; and

"Whereas, the 1991 Budget Reconciliation Act was another source of "hidden costs" to the states—where approximately $13.3 billion in unfunded obligations have been passed on from the federal government to the states; and

"Whereas, in addition to these new mandates imposed on the states by the federal government, state governments must also contend with the never-ceasing problem of keeping pace with the current service requirements of ongoing federal-state programs that require state matching funds for federal grants; and

"Whereas, while the merits of each program should be examined on an individual basis, these mandates are almost always costly to the states, and inappropriately intrude upon or preempt the rights and powers of state government; and

"Whereas, forcing the states to comply with and contribute to the cost of implementing federally-developed programs and initiatives offers the federal government a convenient method of taking the credit for expanding and developing new programs while exporting the burden of cost and administration to the states; and

"Whereas, due to the fact that a significant number of states are now facing serious budgetary problems, the current federal-state partnership arrangement for the administration of federally-mandated programs should be reexamined; and

"Whereas, partnerships between the federal and state governments are very similar to the relationships between state and municipal governments; and

"Whereas, municipal governments in Hawaii had experienced similar problems regarding the establishment of state-mandated programs that left a large financial burden on limited county resources; and

"Whereas, in response to this problem, lawmakers ratified an amendment to the Hawaii State Constitution to ensure that the state will bear the responsibility of funding programs mandated on the counties; and

"Whereas, according to Article VII, Section 5 of the Hawaii State Constitution:

"If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost"; and

"Whereas, the adoption and ratification of a similar amendment to the United States Constitution would ensure that the states are able to effectively implement federally-mandated programs without the fear of financial ruin; and

"Whereas, without ratification of a similar amendment to the United States Constitution, states will undoubtedly begin to experience fiscal conditions that may ultimately become unmanageable; now, therefore,

"*Be it resolved* by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring, that this body supports the proposed "Federal Mandate Relief Act of 1993" as a means of achieving a more equitable distribution of fiscal responsibility between state and federal governments, and further call upon Hawaii's congressional delegation to propose an amendment to the government provide sufficient funding to federally mandated programs over the program's entire existence; and

"*Be it further resolved* that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of Hawaii's congressional delegation."

POM-160. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

"S.R. No. 189

"Whereas from 1982 to 1992 the national debt has more than tripled from one trillion dollars to over 3.2 trillion, and the percentage of the federal budget devoted to interest payments on this debt increased from 8.8 percent to 14.8 percent; and

"Whereas the ballooning in the amount of federal tax dollars required for these interest payments has reduced congressional ability to direct federal resources toward solutions to many problems facing the nation; and

"Whereas during this period of unprecedented growth in the federal debt, a number of Supreme Court decisions paved the way for increased federal control over traditional areas of state responsibility; and

"Whereas the combination of the lack of funds for discretionary spending and the increased authority over the states has encouraged the federal government to shift the costs of many of its initiatives to the states by mandating them to implement programs passed by Congress; and

"Whereas since the mid 1980's there has been an explosion of these mandates introduced every year in Congress, and many of these measures deal with expensive programs such as Medicaid enhancements and enforcement of environmental laws and create a heavy financial burden on the states; and

"Whereas in addition to these new mandates, states must also contend with the problem of keeping pace with the current service requirements of ongoing federal-state programs that require state matching funds for federal grants; and

"Whereas because a significant number of states are now facing serious budgetary problems, the current federal-state partnership arrangement for the financing and administration of federally-mandated programs needs to be reexamined; and

"Whereas recognition of this need has been growing and has resulted in calls for some form of action from many states and interested organizations including the National Governor's Association, the National Conference of State Legislatures, the American

Legislative Exchange Council, and the Advisory Commission on Intergovernmental Relations; now, therefore,

"*Be it resolved* by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, that the federal administration and the United States Congress are urged to provide the states with the necessary means to finance and administer existing and new federally-mandated programs; and

"*Be it further resolved* that the United States Congress is requested to enact legislation which would:

"(1) Require the Congressional Budget Office to:

"(A) Prepare fiscal impact statements which would examine, on a state by state basis, the effect of federally-mandated legislation on each State's fiscal condition;

"(B) Provide ongoing cost estimates for federal legislation and relevant amendments, including revenue and appropriations bills that have intergovernmental impacts, as these proposals move through the federal legislative process; and

"(C) Prepare recommendations to alter the cost-share requirements of each state based on an analysis of the fiscal impact the mandate would have on the State;

"(2) Require federal reimbursement, as long as federally-mandated programs exist, to state and local governments for costs imposed by these mandates; and

"(3) Convene a conference of federal, state, and local officials to examine the propriety and costs of current federal mandates and develop possible strategies for bringing these costs under control; and

"*Be it further resolved* that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of Hawaii's congressional delegation."

POM-161. A joint resolution adopted by the House of Representatives of the Idaho Legislature; to the Committee on Governmental Affairs.

"HOUSE JOINT MEMORIAL NO. 1

"Whereas, the tenth amendment to the constitution of the United States specifically reserves certain rights to the states:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people; and

"Whereas, the federal government continues to infringe upon the right of states to make decisions which properly belong to the states by imposing mandates seemingly with little or no regard for the constitutional provision; and

"Whereas, the mandates imposed by the federal government on the states are becoming increasingly numerous and onerous; and

"Whereas, federal mandates often are not equally applicable to the various regions of the country and thereby create an unnecessary burden to the states for which the mandates are inappropriate; and

"Whereas, federal mandates accompanied by federal funding, matching funds or no funding force states to initiate and fund programs which the state would not otherwise have instituted and inevitably lead to the state's funding of such programs in their entirety; and

"Whereas, the imposition of federal mandates is an erosion of the principle of states' rights, the effect of which is to limit decision-making at the state level and to force mandatory spending which consumes a greater portion of the state's budget and seriously limits that portion which is discretionary.

"*Now, therefore, be it resolved* by the members of the First Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do hereby respectfully submit that the state of Idaho will dutifully consider federal suggestions for state implementation but affirm that this state claims its constitutional right to determine for itself the appropriateness, the fiscal impact and the necessity of implementing federal suggestions.

"*Be it further resolved* that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-162. A resolution passed by the House of Representatives of the General Assembly of the Commonwealth of Kentucky; to the Committee on Governmental Affairs.

"HOUSE RESOLUTION

"Whereas it is both prudent and necessary to support efforts to ensure the most cost-effective use of state funds; and

"Whereas the Commonwealth of Kentucky and other states would be able to better fulfill their budgetary obligations if the federal government would restrict its policy of arbitrarily increasing state costs with respect to federally-mandated activities and services; and

"Whereas, bills have recently been introduced in the United States Congress proposing an end to the practice of imposing unfunded federal mandates on state and local governments and providing that the federal government pay the costs incurred by those governments in complying with certain requirements under federal statutes and regulations; and

"Whereas, these timely and important proposals, H.R. 140 and S. 648, are each known as the "Federal Mandates Relief Act of 1993";

"Now, therefore,

"*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

"Section 1. That the House of Representatives express its support of H.R. 140 and S. 648, the proposed "Federal Mandate Relief Act of 1993," as a means of achieving a more equitable distribution of fiscal responsibility between the state and federal governments, and further calls upon the Congress of the United States to enact one of the aforementioned acts in an effort to put an end to unfunded federal mandates.

"Section 2. That the Clerk of the House of Representatives shall forward a copy of this Resolution to the Honorable Thomas S. Foley, Speaker of the United States House of Representatives, H-204 Capitol Building, Washington, D.C. 20515; to the Honorable Albert A. Gore, Jr., President of the United States Senate, Old Executive Office Building, Washington, D.C. 20501, and to each member of the Kentucky Congressional Delegation."

POM-163. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

JOINT RESOLUTION

"Whereas the Federal Government has mandated new programs and transferred the responsibility of funding these programs to the several states and their political subdivisions; and

"Whereas, the Federal Government has also reduced or eliminated funding for certain programs administered at the state or local government level; and

"Whereas, the several states and their political subdivisions, as a result of economic recession and the substantial costs of these programs are experiencing severe revenue shortfalls and budget imbalances that are further exacerbated by having to fund these unfunded federal mandates; and

"Whereas, the several states, unlike the Federal Government, are required by their constitutions to balance their budgets, which further reduces their ability to absorb unfunded federal mandates; and

"Whereas, the State of Maine, recognizing the inequity of passing unfunded mandates on to its political subdivisions amended its Constitution in November of 1992 to prohibit state legislation or state administrative rules that require additional local government expenditures unless the Maine State Legislature funds those mandates; and

"Whereas, the federal practice of deferring program costs to the states is inherently unfair because many states, such as Maine, lack the resources to fund these programs; and

"Whereas, relief from unfunded mandates is most especially needed in the federal laws and rules governing benefits and utilization for Medicaid recipients, benefit levels for other entitlements and environmental regulation so that the several states and their political subdivisions can regain greater authority over their respective budgets and increase their ability to create jobs; now, therefore, be it

"*Resolved:* That We, your Memorialists, respectfully recommend and urge the Congress of the United States to enact legislation that provides waivers to unfunded federal mandates, be they wholly or partially unfunded; and be it further

"*Resolved:* That this legislation direct the various agencies of the Federal Government to streamline the process by which federal mandates will be waived; and be it further

"*Resolved:* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the governor of each state, the Speaker of the Lower House and the President of the Senate in each state and to each member of the Main Congressional Delegation."

POM-164. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

"JOINT RESOLUTION

"Whereas, Congress was originally envisioned as a legislative body designed to serve the public; and

"Whereas, members of Congress now have salaries greater than the amount of income received by 99% of the American people; and

"Whereas, Congress is in danger of becoming an institution of the elite and the privileged; and

"Whereas, members of Congress now receive automatic pay increases that occur without vote; and

"Whereas, President Clinton is asking all Americans to join in a united economic sacrifice for the benefit of the republic; and

"Whereas, the State Legislature may serve petitions upon Congress to encourage its deliberations; now, therefore, be it

"Resolved: That we, your Memorialists, respectfully recommend and urge the Congress of the United States to roll back its congressional salary to the 1989 level of $89,500; and be it further

"Resolved: That the Congress of the United States is hereby petitioned to repeal its automatic annual cost-of-living adjustment; and be it further

"Resolved: That We further commend the United States Senate for banning honoraria and petition it to continue that prohibition; and be it further

"Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-165. A joint resolution agreed to by the General Assembly of the Commonwealth of Virginia; to the Committee on Governmental Affairs.

"HOUSE JOINT RESOLUTION NO. 606

"Whereas, a strong economy is recognized as an essential ingredient for creating jobs, increasing the tax base, and raising the quality of life for all Virginians; and

"Whereas, as economic growth has slowed, states have become more aware of the importance of economic development activities, and competition among the various states has intensified; and

"Whereas, the General Assembly of Virginia has rested its commitment to maintaining a strong economy in the Commonwealth, while at the same time committing to regional cooperation and fair trade, including that between the District of Columbia and the Commonwealth of Virginia; now, therefore, be it

"*Resolved* by the House of Delegates, the Senate concurring, That the Governor together with the Commissioner of Taxation and the Secretary of Economic Development be requested to devise a business plan that can be initiated in the event the District of Columbia pursues tax policies that impact adversely on residents and businesses of the Commonwealth, for the purpose of (i) addressing the adverse economic consequences that such policies would have on the Commonwealth and (ii) making the Commonwealth an even more desirable location for businesses located in the District of Columbia; and, be it

"*Resolved further*, That the U.S. Congress be memorialized to refrain from enacting any laws or policies that would enable the District of Columbia to enhance its local taxing powers, such as imposing a "commuter tax," such that the residents and businesses of the Commonwealth of Virginia could be adversely impacted; and, be it

"*Resolved further*, That the Governor convey these sentiments to the Virginia congressional delegation and request their assistance; and, be it

"*Resolved finally*, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, the members of the Virginia congressional delegation and the Governor of Virginia.

POM-166. A resolution adopted by the Senate of the Legislature of the State of Hawaii relating to the rights of Hawaii's indigenous people; to the Committee on Indian Affairs.

"S.R. NO. 118

"Whereas, the nation of Hawaii became a kingdom, later unified by Kamehameha I in 1810, which was recognized and duly respected by other nations and kingdoms of the world; and

"Whereas, in 1887, King Kalakaua was coerced under threat of military force to sign the so called "Bayonet Constitution" that made him a ceremonial figurehead; and

"Whereas, on January 17, 1893, the United States government through its military forces, under the authority of U.S. Minister John L. Stevens, aided in the overthrow of the constitutional Hawaiian government headed by Queen Liliuokalani, and helped to establish a Provisional Government, which took full possession of all government functions and buildings of the Hawaiian Islands; and

"Whereas, on December 18, 1893, President Grover Cleveland submitted to the Congress of the United States a full report that condemned the role of the American minister and the U.S. Marines in the overthrow of the Hawaiian monarchy and called for the restoration of the Hawaiian monarchy; and

"Whereas, in 1895, Queen Liluokalani was arrested by the Republic of Hawaii, tried and found guilty of misprision of treason, was sentenced to five years at hard labor, fined $5,000, held prisoner at Iolani Palace for eight months, later held under house arrest at Washington Place for five months, and restricted to the island of Oahu for another eight months; and

"Whereas, in 1898, Congress ignored President Cleveland's previous request and annexed the Hawaiian Islands through the "Newlands Resolution", which was legally questioned as to whether the U.S. Congress had the authority to admit territory into the union by joint resolution, for it is not specified that Congress had the power to acquire territory through any means other than conquest or treaty; and

"Whereas, the actions taken by the United States in the illegal invasion of 1893 are the basis for legal claims for the restoration of human, civil, property, and sovereign rights of Hawaii's indigenous people; and

"Whereas, the seriousness and implications of the unlawful overthrow has yet to be adequately addressed and remedied for over a century of human interaction in Hawaii; and

"Whereas, the year 1993 holds special significance for Hawaii for it marks the one hundred year anniversary when the United States military and diplomatic representatives committed the first overt act to overthrow the independent nation of Hawaii; and

"Whereas, such loss of independence and self-determination of the indigenous Hawaiian people remains an important cultural and political factor today; and

"Whereas, there is increasing discussion and debate in Hawaii and in the Congress of the United States of the adverse consequences of such overt acts of military aggression against a peaceful, independent nation, and to the citizens and descendants of that nation today; and

"Whereas, the even broader issue of equality for all people, irrespective of race, to exercise the right of self-determination in their homelands should be recognized; and

"Whereas, the full range of consideration of Hawaii's peoples' rights and freedoms must be completely explored in order to bring about harmony within Hawaii's society; now, therefore,

"*Be it resolved* by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, that this body declares that 1993 should serve Hawaii, our nation, and the world as a year of special reflection on the rights and dignities of the indigenous people of Hawaii; and

"*Be it further resolved* that the Legislature recommits and reaffirms its efforts and support of indigenous Hawaiians in their struggles to address the federal government's illegal and immoral wrongdoings committed against them; and

"*Be it further resolved* that certified copies of this Resolution be transmitted to the President of the United States, the Vice President of the United States, Secretary of the Interior, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor of the State of Hawaii."

POM-167. A concurrent resolution adopted by the Legislature of the State of Louisiana relating to the recognition of the Caddo Adais Indians; to the Committee on Indian Affairs.

"SENATE CONCURRENT RESOLUTION NO. 16

"Whereas, the principal Adais Indian Village was located on a small creek near the present town of Robeline, Louisiana, which was the site of the Spanish Mission Los Adais; and

"Whereas, the first historical mention of the Adais Indians was made by the Spanish Explorer, Cabeca De Vaca in 1530; and

"Whereas, the Adais Indians language was primarily Caddo, but the Indians developed a strong attachment first to French and then to Spanish at Los Adais, many of them spoke French and Spanish; and

"Whereas, there were five tribes of Caddo Indians, the Adais, Natchitoches, Doustioni, Quachita, and Yatcisi, living in northwest Louisiana at the time of European contact; and

"Whereas, today only one of these tribes, the Adais, still exists as an identifiable group; and

"Whereas, history and heritage of this group has been documented in Part I of the Handbook of American Indians North of Mexico, published by the Smithsonian Institution, Bureau of American Ethnology, Bulletin 30, by F.W. Hodge; and

"Whereas, it is the policy of the state of Louisiana to recognize the Indian tribes within the borders of the state and to support their aspirations for the preservation of their cultural heritage and the improvement of their economic conditions, and to assist them in their just rights.

"*Therefore, be it resolved* that the Legislature of Louisiana formally recognizes the Caddo Adais Indians as an Indian tribe.

"*Be it further resolved* that the Congress of the United States and the United States Bureau of Indian Affairs are hereby memorialized, requested, and urged to take such steps as are necessary to effect, in the near future, formal recognition of the Caddo Adais Indian community and people, and to acknowledge that the rights of the Caddo Adais Indians are no less, if not indeed greater, than that of other Indian tribes in the United States, and, therefore, to take appropriate executive and/or congressional action.

"*Be it further resolved* that copies of this Resolution be transmitted to the president of the United States, the presiding officers of the Senate and the House of Representatives of the Congress of the United States, and the director of the Bureau of Indian Affairs, United States Department of the Interior."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 608. A bill entitled the "Armored Car Industry Reciprocity Act of 1993" (Rept. No. 103–67).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 228. A bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16 (Rept. No. 103–68).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 473. A bill to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes (Rept. No. 103–69).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1167. An original bill to amend the Rural Electrification Act of 1936 to restructure the electric and telephone loan programs, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Frank Hunger, of Mississippi, to be an Assistant Attorney General.

Sheila Foster Anthony, of Arkansas, to be an Assistant Attorney General.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted Committee of the Senate.

By Mr. GLENN, from the Committee on Governmental Affairs:

Benjamin Leader Erdreich, of Alabama, to be Chairman of the Merit Systems Protection Board.

Benjamin Leader Erdreich, of Alabama, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2000.

Roger W. Johnson, of California, to be Administrator of General Services.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself and Mr. D'AMATO):

S. 1151. A bill to facilitate the flow of credit to small business by easing certain regulatory burdens on depository institutions, to require analysis of such burdens and their effectiveness, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCONNELL (for himself, Mr. LUGAR, and Mr. COATS):

S. 1152. A bill to suspend the duties on certain chemicals; to the Committee on Finance.

By Mr. SIMON:

S. 1153. A bill to suspend temporarily the duty on Tacrolimus in bulk or measured dose form subject to approval by the Food and Drug Administration; to the Committee on Finance.

By Mr. DECONCINI:

S. 1154. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Microenterprise Development Fund, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself, Mr. DURENBERGER, and Mr. MACK):

S. 1155. A bill to ensure that the Caribbean Basin Initiative is not adversely affected by the implementation of the North American Free Trade Agreement and to apply "fast track" approval procedures to free trade agreements entered into between the United States and certain Caribbean Basin countries; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1156. A bill to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. SHELBY:

S. 1157. A bill to establish a Commission on the airplane crash at Gander, Newfoundland; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER:

S. 1158. A bill to authorize the National Institute of Corrections to make grants to States to carry out family unity demonstration projects, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. BINGAMAN, Mr. BROWN, Mr. BUMPERS, Mr. COCHRAN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mrs. FEINSTEIN, Mr. GORTON, Mr. HATCH, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KOHL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LEVIN, Mr. PELL, Mr. PRESSLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. COHEN, Mr. CRAIG, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. METZENBAUM, Mr. HEFLIN, Mr. ROTH, and Mr. WARNER):

S. 1159. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD:

S. 1160. A bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself, Ms. MOSELEY-BRAUN, and Mr. CAMPBELL):

S. 1161. A bill to establish a program to ensure nondiscriminatory compliance with environmental, health, and safety laws and to ensure equal protection of the public health; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. LIEBERMAN, and Mr. SIMPSON) (by request):

S. 1162. A bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1994 and 1995, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 1163. A bill to reduce spending and tax subsidies in order to reduce the budget deficit, and for other purposes; to the Committee on Finance.

By Mr. MACK:

S. 1164. A bill to amend section 2119 of title 18, United States Code, to authorize imposition of the death penalty if death results from a carjacking, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN:

S. 1165. A bill to provide for judicial review of Nuclear Regulatory Commission decisions on petitions for enforce actions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. LIEBERMAN, and Mr. SIMPSON) (by request):

S. 1166. A bill to amend the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954 to enhance the safety and security of nuclear power facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S. 1167. An original bill to amend the Rural Electrification Act of 1936 to restructure the electric and telephone loan programs, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself and Mr. D'AMATO):

S. 1151. A bill to facilitate the flow of credit to small business by easing certain regulatory burdens on depository institutions, to require analysis of such burdens and their effectiveness, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT CRUNCH RELIEF ACT OF 1993

Mr. DOLE. Mr. President, later today, the Senate will adopt the largest tax package in American history—a whopping $264 billion.

No doubt about it, with major tax increases looming on the horizon, the American people are uncertain about their economic future. And, until this uncertainty gives way to confidence, they are postponing the hiring, spending, and investment decisions that could give the economy a much-needed jump-start. This is a big reason behind our sluggish economy.

Another reason is the lack of available credit, particularly for small businesses. Unfortunately, regulatory burdens and overly restrictive examination practices by the bank regulators have discouraged banks from making even prudent loans, thereby choking

off capital to creditworthy businesses and farms. The result is fewer jobs and less economic growth.

That's why I am joining today with my distinguished colleague from New York, Senator D'AMATO, in introducing the Credit Crunch Relief Act of 1993. This important legislation outlines a six-point plan to help ease credit, reduce the unnecessary regulatory burdens on our strongest banks, and put our country back on the road to economic recovery.

MINIMAL DOCUMENTATION LOANS

The first provision would allow the strongest banks to make loans to small businesses without having to fulfill all the paperwork requirements that bank examiners normally require. These requirements are often unnecessary, particularly when a bank would like to extend credit to an individual or an institution with a longstanding reputation of creditworthiness within the local community.

To provide some safeguards, the total of the minimal documentation loans at a single institution will be limited to 40 percent of its total capital. No individual loan may exceed $900,000 or 5 percent of the lending institution's total capital, whichever is less. The Federal banking regulators may allow a bank to exceed these limits, consistent with safety soundness considerations.

This provision reflects the view of President Clinton, who recently ordered the Federal banking regulators to allow the strongest banks to make minimal documentation loans. I commend the President for his leadership on this issue. By going the statutory route, rather than relying exclusively on regulatory action, this provision gives the President's directive some added punch.

PRESIDENTIAL AUTHORITY

The second provision is also aimed at giving the President the tools he needs to get the job done. Specifically, it vests with the President the authority to suspend any bank statute or regulation that he determines is unnecessary, imposes costs that outweigh its benefits, or has a negative impact on the availability of credit. This provision was introduced earlier this year by Senator D'AMATO as the Presidential Credit Availability and Economic Recovery Act.

President Clinton has spoken eloquently about the need to reinvent Government and for a more rational approach to regulation, particularly banking regulation. This provision will help the President accomplish this important goal: if he believes that a particular banking regulation restricts the availability of credit, thereby slowing economic growth, the President will have the undisputed authority to suspend that law's application.

COMPLIANCE WITH THE COMMUNITY REINVESTMENT ACT

The third provision establishes a statutory presumption that a bank is meeting the credit needs of its community and is in compliance with the Community Reinvestment Act, if the bank has received a CRA rating of satisfactory or outstanding in the most recent evaluation of its record. This presumption is rebuttable by clear and convincing evidence that a community's credit needs are not being met.

When a bank seeks to buy a new branch office, it should not have to relitigate the issue of CRA compliance if it already has a satisfactory or outstanding CRA rating. Many bankers wonder why they seek a CRA rating in the first place, if the issue of compliance is relitigated again and again and again. A statutory presumption of CRA compliance would help prevent needless litigation and ultimately reduce costs for bank consumers.

REGULATORY IMPACT STATEMENT

The fourth provision prohibits each of the Federal banking regulators from issuing new regulations until the agency has conducted an analysis of the impact of the regulation on small banks and consumers, including small business borrowers. Before a proposed regulation becomes effective, the benefits of the regulation must outweigh its costs.

Mr. President, this may sound like common sense, but common sense is often a rare commodity in Washington.

DELAYING THE EFFECTIVE DATE OF SECTION 132

The fifth provision delays, until January 1, 1996, the effective date of section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Section 132 requires Federal regulators to set national standards for a wide array of internal bank procedures—all regardless of whether these standards are appropriate for individual institutions.

Although originally designed as a reform measure, section 132's one-size-fits-all approach to bank procedures could have a negative impact on bank lending. As Federal Reserve Board Chairman Alan Greenspan recently explained:

> The necessary regulatory response * * * and the anticipated industry response to the new regulations have and will divert scarce resources at regulatory agencies, add to the regulatory burden on the industry, and create uncertainties, all of which reduce the incentives of bankers to take on risk, perhaps even reasonable business risk.

Delaying the effective date of section 132 will give banks, particularly community banks, more time to grapple with the new regulatory requirements. This will hopefully reduce the uncertainty and spur prudent lending.

CONSUMER SURVEYS

The sixth and final provision directs each Federal banking regulatory agency to conduct a survey of bank customers to determine whether those laws that Congress designed to protect consumers are, in fact, achieving their intended goals. The laws that will be surveyed include the Truth-in-Savings Act, the Truth-in-Lending Act, and the Community Reinvestment Act. The surveys must be completed within 6 months of the enactment of this bill.

All too often, Congress passes laws under the banner of consumer protection without having a clear sense of whether these laws will work as advertised. I suspect that some consumer protection laws actually end up harming consumers in the long run as the additional costs of regulation are passed on to them. To determine whether bank consumers are, in fact, benefiting from the laws we pass, Congress and the regulators should do what any business would do—conduct a survey and ask the consumers themselves.

WON'T END THE CREDIT CRUNCH OVERNIGHT

Mr. President, these proposals will not end the credit crunch overnight, but they are a step in the right direction. We all agree that regulation is necessary to protect the taxpayers from the costs of bank failures and to protect consumers from the unscrupulous practices of the few bad apples in the banking business. But regulation should never be an end in itself, and it should never act as an obstacle to economic growth, absent very strong justifications.

Mr. President, I ask unanimous consent that the full text of the Credit Crunch Relief Act of 1993 and an executive summary of the act be inserted in the RECORD immediately after my remarks.

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

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Crunch Relief Act of 1993".

SEC. 2. EXEMPTION FROM LOAN DOCUMENTATION REVIEW.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(h) EXEMPTION FROM LOAN DOCUMENTATION REVIEW.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 38;

"(B) the term 'eligible depository institution' means a depository institution that—

"(i) is adequately capitalized; and

"(ii) has a CAMEL or MACRO composite rating of 1 or 2 under the Uniform Financial Institutions Rating System as of the most recent examination of such institution by the appropriate Federal banking agency;

"(C) the term 'small business' has the meaning given to such term by the Administrator of the Small Business Administration;

"(D) the term 'small farm' has the meaning given to such term by the Secretary of Agriculture; and

"(E) the term 'qualifying loan' means a loan to a small business or a small farm that is identified by an eligible depository institution under paragraph (3) and that otherwise meets the requirements of this subsection.

"(2) EXEMPTION.—Except to the extent provided by an order or regulation of an appropriate Federal banking agency, a depository institution examiner may not consider the adequacy of the documentation accompanying the extension of qualifying loans by an eligible depository institution in making any examination or evaluation of the institution under this section. Qualifying loans shall be evaluated by the appropriate Federal banking agency solely on the performance of such loans.

"(3) QUALIFYING LOANS.—An eligible depository institution may identify a portion of its portfolio of loans to small businesses or to small farms, in writing, as qualifying loans for purposes of the exemption provided in paragraph (2).

"(4) LIMITATIONS.—

"(A) LOAN TYPES AND AMOUNTS.—A loan may not be considered to be a qualifying loan if—

"(i) inclusion of the loan in the total number of qualifying loans identified by an eligible depository institution would result in an aggregate value of all qualifying loans made by that institution equal to more than 40 percent of the total capital of the institution;

"(ii) the loan amount is more than the lesser of—

"(I) $900,000; or

"(II) 5 percent of the total capital of the eligible depository institution; or

"(iii) the borrower is an executive officer, director, or principal shareholder of such institution.

"(B) ADJUSTMENTS.—Each appropriate Federal banking agency may adjust the limitations set forth in subparagraph (A), to permit eligible depository institutions to make additional qualifying loans, consistent with preserving the safety and soundness of such institutions, in order to further promote credit availability.

"(5) INTERNAL DOCUMENTATION.—An eligible depository institution shall—

"(A) maintain an aggregate list or accounting segregation of its qualifying loans which includes the current performance status of each such loan; and

"(B) fully evaluate and maintain an internal record of the collectibility of each qualifying loan in determining the adequacy of its allowance for loan and lease losses or general valuation allowance attributable to such loan.

"(6) LOSS OF ELIGIBILITY.—A depository institution may not identify any new qualifying loans (including loan renewals) for purposes of the exemption provided in paragraph (2) at any time during which it fails to meet the eligibility requirements of this subsection.".

SEC. 3. PRESIDENTIAL REVIEW AND AUTHORITY TO SUSPEND.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall conduct a thorough review and evaluation of all statutory and regulatory provisions affecting insured depository institutions. This review shall include an analysis of—

(1) the purposes of the provision;

(2) the effectiveness of the provision in achieving such purposes;

(3) whether any other provision provides an alternative or duplicative means of achieving those purposes;

(4) the cost imposed by compliance with the provisions upon insured depository institutions and consumers; and

(5) the relationship between the provision, its compliance costs, and the availability of credit in the United States.

(b) AUTHORITY TO SUSPEND.—If the President makes a determination described in subsection (c), the President may, by executive order, suspend the applicability of—

(1) any Federal law affecting insured depository institutions or depository institution holding companies (or any portion thereof); and

(2) any regulation or guideline promulgated by any of the Federal banking agencies (or any portion thereof).

(c) DETERMINATION.—The President may not suspend the applicability of any law, regulation, or guideline under subsection (b) unless the President determines that—

(1) the Federal law, regulation, or guideline has accomplished its goal and the law, regulation, or guideline is therefore no longer necessary;

(2) the law, regulation, or guideline is not as effective in achieving its intended purpose as other available alternatives that would impose lesser costs on financial institutions, their customers, or the economy;

(3) the cost of compliance with the law, regulation, or guideline outweighs the potential benefits sought to be accomplished by the law, regulation, or guideline; or

(4) the law, regulation, or guideline has a negative impact on the availability of credit in the United States which outweighs the benefits sought to be accomplished by the law, regulation, or guideline.

(d) PUBLICATION AND EFFECTIVE DATE.—A Presidential order issued pursuant to this section shall be published in the Federal Register, and shall become effective 30 days after such publication, unless the President, for good cause, determines that a shorter period is necessary and in the public interest.

(e) CONSULTATION.—Prior to making a determination under subsection (b) that a law, regulation, or guideline is to be suspended, the President shall consult with the Secretary of the Treasury, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

(f) NOTIFICATION.—The President shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives prior to issuing any order under subsection (b).

(g) RESTRICTION.—Nothing in this section authorizes the President to suspend any law, regulation, or guideline—

(1) that is necessary for the safe and sound operation of insured depository institutions; or

(2) that—

(A) prohibits discrimination in the provision of financial services based on race, sex, national origin, marital status, or age;

(B) relates directly to the conduct of monetary policy; or

(C) pertains to an enforcement proceeding or supervisory action with respect to a particular institution or party.

(h) SUNSET.—The authority of the President to suspend any law, regulation, or guideline under this section shall terminate on January 1, 1997.

(i) INCORPORATED DEFINITIONS.—For purposes of this section, the terms "Federal banking agencies" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 4. NEW FEDERAL BANKING REGULATIONS SUBJECT TO REGULATORY IMPACT ANALYSIS.

(a) REGULATORY IMPACT ANALYSIS.—

(1) IN GENERAL.—No new regulation shall be promulgated by an appropriate Federal banking agency until such agency has conducted a regulatory impact analysis and concluded that the benefits of the proposed regulation outweigh the costs of implementing and complying with the regulation, including the particular benefits and costs of compliance with the proposed regulation for small banks.

(2) NEW REGULATIONS.—For purposes of this subsection, a regulation shall be considered to be "new" if it is promulgated, modified, amended, or reissued on or after the date of enactment of this Act.

(b) COSTS.—In reviewing the costs of implementing and complying with a proposed regulation under subsection (a), the appropriate Federal banking agency shall consider the impact of the proposed regulation on—

(1) the national economy (including the potential for job creation);

(2) consumers;

(3) small businesses;

(4) small banks (including administrative and personnel costs);

(5) other users of financial services; and

(6) new paperwork and documentation requirements.

(c) BENEFITS.—In reviewing the benefits of a proposed regulation under subsection (a), the appropriate Federal banking agency shall consider the benefits of the proposed regulation to—

(1) the public;

(2) taxpayers; and

(3) the overall safety and soundness of the Nation's banking system.

(d) EASING BURDEN ON SMALL BANKS.—In conducting the regulatory impact analysis under subsection (a), the appropriate Federal banking agency shall consider including in the proposed regulation a provision that eases the regulatory burden on small banks, including special compliance provisions.

(e) ESTIMATE REQUIRED.—The regulatory impact analysis required by subsection (a) shall include an estimate of the number of small banks and small businesses that will be affected by the regulation.

(f) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) INCORPORATED DEFINITIONS.—The terms "appropriate Federal banking agency" and "bank", have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) REGULATORY IMPACT ANALYSIS.—The term "regulatory impact analysis" means a review of the potential costs and benefits of a proposed regulation, and in particular, the costs to small banks and their customers.

(3) SMALL BANK.—The term "small bank" means a bank or savings association with total assets of not more than $400,000,000.

SEC. 5. PRESUMPTION OF COMPLIANCE WITH COMMUNITY REINVESTMENT ACT.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection:

"(c) SAFE HARBOR PROVISION.—

"(1) PRESUMPTION OF COMPLIANCE.—In the evaluation of an application for a deposit facility by a regulated financial institution that has received a rating of 'Satisfactory' or 'Outstanding' in the most recent written evaluation of its record under section 807(b),

the institution shall be entitled to a presumption, rebuttable by clear and convincing evidence, that it is meeting the credit needs of the entire community and is otherwise in compliance with the requirements of this title.

"(2) RESOLUTION OF DISPUTES.—The appropriate Federal financial supervisory agency shall resolve any disputed evaluation of compliance with this title not later than 30 days after the dispute arises.".

SEC. 6. EXTENSION OF EFFECTIVE DATE.

Section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1831p-1 note) is amended—

(1) in subsection (b), by striking "August 1, 1993" and inserting "January 1, 1996"; and

(2) by amending subsection (c) to read as follows:

"(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.".

SEC. 7. CONSUMER SURVEYS AND REPORT.

(a) SURVEYS.—Not later than 6 months after the date of enactment of this Act, each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall conduct a statistically valid survey of financial services consumers to determine the general public awareness of, perceived benefits to consumers of, and cost effectiveness of the Federal banking laws under which the agency operates that are intended for the protection of such consumers, including, but not limited to—

(1) the Expedited Funds Availability Act;

(2) the Truth in Lending Act;

(3) the Truth in Savings Act;

(4) the Real Estate Settlement Procedures Act of 1974;

(5) the Home Mortgage Disclosure Act of 1975;

(6) the Fair Credit Reporting Act;

(7) the Equal Credit Opportunity Act;

(8) the Community Reinvestment Act of 1977;

(9) the Home Equity Loan Consumer Protection Act;

(10) the Fair Credit and Charge Card Disclosure Act; and

(11) the rules and regulations promulgated under those Acts.

(b) REPORT.—Not later than 30 days after completion of its survey under subsection (a), each of the Federal banking agencies shall submit a report of the results of its survey to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

CREDIT CRUNCH RELIEF ACT OF 1993—
EXECUTIVE SUMMARY

Section 1. Short Title. The bill is entitled the "Credit Crunch Relief Act of 1993."

Section 2. Exemption of Loan Document Review. This provision amends the Federal Deposit Insurance Corporation Improvement Act of 1991 to permit the strongest banks and thrifts (with CAMEL OR MACRO ratings of 1 or 2) to make loans to small businesses with only "minimal documentation." The total of the "minimal documentation" loans at a single institution will be limited to 40 percent of its total capital. No individual loan may exceed $900,000 or 5% of the lending institution's total capital, whichever is less. Each Federal banking agency may adjust this limitation to permit eligible institutions to make additional "minimal documentation" loans, consistent with safety and soundness considerations.

This provision reflects the Administration's credit crunch proposal.

Section 3. Expansion of Presidential Authority. This provision gives the President the authority, by executive order, to suspend any statute or regulation affecting a depository institution if he determines that the statute or regulation 1) is unnecessary, 2) is less effective in achieving its purpose than other available alternatives, 3) imposes costs that outweigh its benefits, or 4) has a negative impact on the availability of credit. Before suspending any statute or regulation, the President must notify the House and Senate Banking Committees. Presidential authority granted by the provision expires on January 1, 1997.

This provision incorporates the Presidential Credit Availability and Economic Recovery Act, introduced by Senator D'Amato.

Section 4. Presumption of Compliance with the Community Reinvestment Act. This provision establishes a statutory presumption that a bank is meeting the credit needs of its community and is in compliance with the Community Reinvestment Act, if the bank has received a CRA rating of "Satisfactory" or "Outstanding" in the most recent evaluation of its record. This presumption is rebuttable by "clear and convincing" evidence that a community's credit needs are not being met.

Section 5. Regulatory Impact Statement. This provision prohibits the promulgation of new banking regulations until the appropriate agency conducts an analysis of the regulatory impact on small banks and consumers, including small business borrowers.

This provision is taken from the Small Business Assistance and Credit Crunch Relief Act, introduced by Senator Chafee.

Section 6. Delay Effective Date of Section 132 of FDICIA. This provision delays the effective date of Section 132 of FDICIA until January 1, 1996. Section 132 operates as a straightjacket on bank operations by requiring federal regulators to set nationwide standards for a wide variety of bank internal procedures, including a bank's internal controls, loan documentation practices, and credit underwriting standards—all regardless of whether these standards are appropriate for individual institutions.

Section 7. Consumer Survey. This provision directs each Federal banking agency to conduct a statistically valid survey of financial-services customers to determine the general public awareness of, perceived benefits to consumers of, and cost effectiveness of, the federal banking laws designed to protect consumers. Each survey must be conducted within six months of enactment. A report summarizing the survey results must be submitted to the House and Senate Banking Committees within 30 days of the survey's completion.

By Mr. MCCONNELL (for himself, Mr. LUGAR, and Mr. COATS):

S. 1152. A bill to suspend the duties on certain chemicals; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

• Mr. MCCONNELL. Mr. President, I rise today to introduce legislation that will temporarily suspend duties on certain chemicals imported by the Engelhard Corp. Engelhard, located in Louisville, KY, produces a wide variety of pigments and dyes primarily for its customers in the automotive industry.

In its production process, Engelhard sources several million dollars a year of raw materials from foreign countries. The chemicals Engelhard imports are not available domestically, nor are any domestic-produced substitutes available. The duties paid on the imported products add, on average, 16 percent to Engelhard's purchase price, putting the company at a competitive disadvantage relative to its foreign competitors.

The bill I'm introducing today will suspend temporarily these duties, allowing Engelhard to continue to acquire the production materials it requires in a way that will enable the firm to compete effectively in the international arena.

I encourage the members of the Finance Committee to look favorably on this and other duty-suspension bills and to act quickly to pass a comprehensive duty suspension bill this Congress.•

By Mr. DECONCINI:

S. 1154. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a microenterprise development fund, and for other purposes; to the Committee on Foreign Relations.

MICROENTERPRISE DEVELOPMENT FUND

• Mr. DECONCINI. Mr. President, today I rise to introduce a bill which will greatly improve the quality of the foreign aid we provide to developing countries. I am pleased to be supported in this effort by my distinguished colleague from Florida, Senator BOB GRAHAM. This bill will restructure AID's microenterprise program through the creation of a centrally managed microenterprise development fund. Consolidating this program into one fund will reduce costs, streamline its administration, and assure that more resources flow directly to the poor and women by using the outreach capacity of indigenous, grassroots organizations.

Mr. President, so often our foreign aid dollars have ended up in the wrong hands in recipient nations. Either because of lack of infrastructure, cultural biases, incompetence, or outright corruption, our taxpayers' hard earned dollars do not get to the people in developing countries who earnestly desire to improve their own welfare as well as that of their communities and their countries. At the same time that much of our aid has been squandered, I have watched with admiration as private assistance organizations—such as the Grameen Bank in Bangladesh—have demonstrated the effectiveness of microenterprise assistance programs as a means of sustaining economic development as the grassroots level.

Although we have been making progress in supporting microenterprise activities in recent years, there is so much more that we can do to implement a truly effective program. In recent years, AID has made only a fraction of the microenterprise loans of

which it is capable. According to a 1991 report to Congress from AID, only 67,000 loans were made with AID's entire microenterprise portfolio. In contrast, during the same period, PRODEM, a leading private microenterprise organization in Bolivia, made over 52,000 loans in that one country during the same period.

Moreover, AID continues to have difficulty in meeting the central goals of the original microenterprise legislation, that of extending credit to the poor and maximizing the participation of women. In fiscal year 1991, AID made some progress toward these goals, generating 39,000 loans at an average size of $128. These loans, however, represent only 12 percent of the capital in AID's portfolio. AID also reported that women received only 35 percent of its loan capital, which is a further indication that the program is not adequately reaching the severely poor.

Since the poor rarely have access to salaried jobs in the developing world, the majority turn to self-employment. Microenterprise programs provide the self-employed poor with credit at market rates, freeing them from the yoke of money lenders who can charge interest rates as high as 10 percent per day. The high repayment rates of these microenterprise loan programs, which often exceed 95 percent, attest to the seriousness with which poor people address this once-in-a-lifetime opportunity.

Microenterprise programs are particularly effective in improving the socioeconomic status of women. These programs demonstrate that the enterprises of poor women can make for sound investments. Not only do women have higher repayment rates than men, studies show that women are more inclined to use their increased income to better their families' health, nutrition, and housing.

The microenterprise development fund will promote sustainable financial and technical assistance institutions which serve the self-employed poor in the developing world. The fund will help open the financial markets of these countries to millions of new entrepreneurs and savers. Funds will be channeled through U.S. private voluntary organizations, credit unions, and local nongovernmental organizations. The resources of the fund will be leveraged with those of the U.S. private sector, other donor nations, and local communities. For every dollar disbursed from the fund, recipient institutions should generate at least $5 in loans by leveraging and rotating the capital. And, of course, this assistance is not a one-way street. As developing nations improve their economic status, they provide markets for U.S. goods, services, and technology. This means jobs for Americans.

At a time when we must pinch every penny which we consider spending, and when there are many in this country who call for the United States to withdraw from its international commitments, which I believe would be disastrous, we must ensure that our foreign aid dollars support the most effective programs possible. We have recently overcome the unintended legislative effects of language contained in last year's foreign operations appropriation bill which established conditions which were interpreted by some as blocking AID from supporting microenterprise programs. I am confident that the new AID administrator, Mr. Brian Atwood, fully supports this effort to put his agency squarely behind sustainable development.

Mr. President, this bill is an important step toward implementing Senate Concurrent Resolution 26, the Many Neighbors, One Earth resolution, which calls on President Clinton to lead a reform effort that puts sustainable development at the center of our foreign aid policy. This resolution forms the basis of the effort we are currently undertaking with Deputy Secretary of State Warton to restructure our foreign aid. It is important to note that we are not calling for increased foreign aid spending, but rather for a shift in emphasis within the existing budget.

Our specific goals in pursuit of sustainable development are: Expanding economic opportunities, especially for the poor; meeting basic human needs for food, water, health care; and education; promoting environmental protection and sustainable natural resource use; and, and promoting pluralism, democratic participation, and respect for human rights.

I have attempted to increase our flexibility in administering the microenterprise development fund by avoiding the setting of a specific dollar amount to be appropriated. However, I must add that it is my hope that the amount expended by AID for microenterprise activities will be at least the $85 million which was urged for this program in last year's report accompanying the Senate's foreign operations appropriations bill.

I call upon the Congress and the Administration to support this legislation which will help to ensure that, even in these lean times, the United States will remain a generous and effective supporter of the developing nations of the world. I urge my colleagues to cosponsor this legislation and ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MICROENTERPRISE DEVELOPMENT.

Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by adding after title V the following:

"TITLE VI—MICROENTERPRISE DEVELOPMENT

"SEC. 251. MICROENTERPRISE DEVELOPMENT.

"(a) CENTRALLY-MANAGED FUND.—

"(1) ESTABLISHMENT AND MANAGEMENT.—The administrator of the agency primarily responsible for administering this part shall establish within the agency a centrally-managed fund to be known as the Microenterprise Development Fund (hereafter in this section referred to as the 'Fund'). The Fund shall be managed by the office in that agency that has primary responsibility for working with private and voluntary organizations.

"(2) DISBURSEMENTS THROUGH THE FUND.—All economic support fund assistance and development assistance that are used to promote microenterprise development shall be disbursed through the Fund.

"(b) ACTIVITIES TO BE SUPPORTED.—The Fund shall be used to support—

"(1) the institutional development of the entities described in subsection (c);

"(2) the provision of microenterprise credit through the entities described in subsection (c); and

"(3) research on microenterprise development and evaluation of microenterprise activities funded under this section.

"(c) INTERMEDIARY ORGANIZATIONS.—Funds disbursed through the Fund shall be primarily channeled through—

"(1) United States and indigenous private and voluntary organizations,

"(2) United States and indigenous credit union organizations, and

"(3) other indigenous governmental and nongovernmental organizations,

that have demonstrated a capacity to develop sustainable microenterprise service institutions.

"(d) ALLOCATION OF FUNDS.—

"(1) MICROENTERPRISE CREDIT.—(A) Of amounts disbursed through the Fund each fiscal year pursuant to subsection (b)(2), at least 50 percent shall be used for poverty lending. As used in this paragraph, the term 'poverty lending' means a loan of $300 or less or, in the case of an initial loan, of $150 or less.

"(B) The administrator of the agency primarily responsible for administering this part shall seek to ensure that not less than 60 percent of the borrowers of funds disbursed through the Fund pursuant to subsection (b)(2) are women.

"(2) RESEARCH AND EVALUATION.—Not more than 5 percent of funds disbursed through the Fund each fiscal year may be used for research and evaluation activities under subsection (b)(3).

"(e) ADDITIONAL SOURCES OF FINANCING.—Such agency is authorized to facilitate negotiations between such organizations and multilateral development banks so that such organizations may obtain additional financing.

"SEC. 252. DEFINITIONS.

"For purposes of this title—

"(1) the term 'development assistance' means assistance provided under chapter 1 or chapter 10 of this part; and

"(2) the term 'economic support fund assistance' means assistance provided under chapter 4 of part II.".•

By Mr. GRAHAM (for himself, Mr. DURENBERGER, and Mr. MACK):

S. 1155. A bill to ensure that the Caribbean Basin Initiative is not adversely affected by the implementation of the North American Free-Trade Agreement

and to apply fast-track approval procedures to free-trade agreements entered into between the United States and certain Caribbean Basin countries.

CARIBBEAN BASIN FREE TRADE AGREEMENTS ACT

Mr. GRAHAM. Mr. President, today with my colleagues Senator MACK and Senator DURENBERGER, I am introducing the Caribbean basin Free-Trade Agreements Act, legislation which will protect United States trade with the Caribbean Basin Economic Recovery Act [CBERA] beneficiary countries from the potential adverse effects of the North American Free-Trade Agreement [NAFTA] on these Caribbean and Central American countries. An almost identical bill has been introduced in the House of Representatives by Congressman SAM GIBBONS of Florida.

Upon the implementation of NAFTA, this bill would provide Caribbean and Central American countries 3-year transitional parity with NAFTA on exported goods currently excluded from CBERA. This NAFTA parity will provide tariff and quota treatment that is identical to the treatment accorded like articles imported from Mexico under NAFTA provisions.

NAFTA parity would be subject to NAFTA rules of origin, customs procedures, safeguard provisions, and any labor and environmental obligations currently being negotiated in supplementals to NAFTA.

This bill differs slightly from the House legislation, in that it omits section 102, a provision involving Caribbean access to the U.S. sugar market.

This bill provides an important opportunity to encourage Caribbean Basin nations to undertake trade liberalization measures that will allow them to move forward in joining a hemispheric trading system.

The bill authorizes the President to seek comprehensive reciprocal trade agreements under congressional fast-track implementing procedures before June 1, 1996.

The bill requires the U.S. Trade Representative to determine the timing, feasibility, and desirability for any CBERA beneficiary country or group of countries to either accede to NAFTA or enter into NAFTA-comparable reciprocal trade agreements with the United States.

After 3 years, CBERA beneficiary countries that do not accede to NAFTA or enter into free-trade agreements with the United States would no longer receive NAFTA parity.

By way of background, the United States has long cultivated a profitable trade relationship with the Caribbean Basin countries, and the benefits of this relationship are clear:

The United States enjoys a growing trade surplus with Caribbean and Central American countries, from $340 million in 1986 to $2 billion in 1992, an increase of 600 percent.

U.S. exports to the Caribbean Basin are expanding at three times the rate of our overall worldwide exports, from $6.6 billion in 1986 to $11.8 billion in 1992. These exports currently support over 200,000 American jobs. One hundred thousand of these jobs have been created since 1986, and each one of these jobs is critically important in this time of slowed economic growth.

The Department of Labor and the U.S. International Trade Commission have repeatedly concluded that the Caribbean Basin Initiative [CBI] has had little, if any, negative impact on U.S. industry and labor.

Over 77 percent of Caribbean Basin textile and apparel exports to the United States are assembled, in whole or in part, from United States components. This coproduction benefits American firms and jobs.

The Caribbean Basin is now the 10th largest market for United States products, ahead of Italy and Singapore.

I support a general policy of free trade, yet I am concerned about the potential impact of NAFTA if this parity bill is not approved. Should this agreement be implemented, CBI beneficiary countries will face serious competitive disadvantages in a small but important number of goods, especially textiles and apparel.

These countries depend on the United States for a large share of their trade and outside investment in a concentrated number of goods, which makes them particularly vulnerable to changes in such trade—potentially wiping out recent economic progress should trade and investment shift elsewhere.

In particular, for several Caribbean Basin countries—the Dominican Republic, Costa Rica, Guatemala, Honduras, and Jamaica—the growth of the apparel export industry has been a central and critical element of these countries' export-led growth strategy.

Approximately 35 percent of Caribbean Basin exports to the United States, mostly textiles and apparel products, would be put at an unintended disadvantage should NAFTA be implemented. For example, Jamaican textile and apparel exports would not be able to compete fairly with similar Mexican goods after tariffs or import barriers on the Mexican exports are lowered and thus become cheaper.

Caribbean trade is cheaper than Caribbean aid. If we do nothing, I am concerned that NAFTA will divert trade, investment, and productive facilities from the Caribbean Basin, potentially making it necessary to increase foreign aid to the region to bolster failing economies.

Foreign aid to the Caribbean has been steadily decreasing, from $1.9 billion in 1985 to $827 million in 1992, as United States trade with the Caribbean Basin has steadily increased.

The Federal Government's commitment to American business requires protecting our economic interests in Caribbean and Central American countries. It would be counterproductive to provide incentives to American businesses to invest in the region and then allow a precipitous reversal of policy to undercut those investments.

A slowdown of economic liberalization and growth in the Caribbean Basin would have repercussions in America by damaging the United States textile and apparel industry, eliminating American jobs, squandering burgeoning market opportunities for American exports, and increasing needs for foreign assistance. We should not lose our positive economic influence in the Caribbean region and be forced to return to much higher levels of aid.

Especially in the last decade, the United States has supported and encouraged movement by Caribbean and Central American nations toward democracy, macroeconomic discipline, and trade and investment liberalization. Trade with the Caribbean Basin has been an important, successful element of this policy. This opinion editorial from the Miami Herald supports my statement that we should expand programs that contribute to the free-market, democratic reforms that the United States claims to support.

Any disruption of economic growth could prove especially troubling for some of the region's more fragile political systems, especially in Central America.

In Guatemala, the business sector, threatened with the loss of international trade benefits, played a crucial role in stopping Serrano's illegal seizure of power.

Similarly, we can see the day when a democratic Haiti will have enormous economic rebuilding needs. A transitional period enhancing opportunities for outside investment and foreign trade will lessen Haiti's need for direct aid and encourage economic growth in this country.

Improving economic and political conditions in the Caribbean Basin will contribute to political stability, deter immigration and reduce trafficking in illegal drugs. It is in the best interests of the United States for these countries to maintain healthy market economies and stable democracies.

Ultimately, by linking continuation of benefits to eventual negotiations of bilateral free-trade agreements, this legislation encourages beneficiary countries to liberalize trade and assume full obligations of the hemispheric trading system, further expanding and opening markets to American goods, services, and investment. For example, Jamaica has clearly indicated a commitment to economic reform by accelerating trade liberalization, reducing tariffs, removing quantitive trade restrictions and implementing programs of privatization.

Costa Rica has shown a similar interest in economic reform and trade liberalization by opening its economy to international competition through tariff reductions and removal of trade barriers.

This bill is intended to benefit the United States by protecting a carefully cultivated trade relationship that has achieved only positive results for the United States. We should not allow our hard work and investment in this region to go to waste. Failing to protect our current beneficial trade relationship with the Caribbean Basin countries will undermine positive economic and democratic growth in these countries and eliminate well-established trade supporting our economy and American jobs.

I hope that my colleagues will join me in supporting this important initiative by continuing our commitment to building long-term economic relationships with our nearby trading partners. I ask unanimous consent that this Miami Herald article and the text of the bill be printed in the RECORD following my remarks.

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

S. 1155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean Basin Free Trade Agreements Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that the continuation and strengthening of the commitment of the United States, as expressed by the enactment of the Caribbean Basin Economic Recovery Act and the Caribbean Basin Economic Recovery Expansion Act of 1990, to the successful development of the Caribbean region requires the enactment of provisions—

(1) to encourage the continuation of structural reform efforts by Caribbean countries toward market economies and trade liberalization;

(2) to preserve existing economic advantages under the Caribbean Basin Initiative program and avoid the potential diversion of investment from beneficiary countries under the program to Mexico as a result of the North American Free Trade Agreement;

(3) to maintain and increase trade benefits under the Caribbean Basin Initiative program in order to promote further economic development and political stability in beneficiary countries and to expand United States export opportunities in the Caribbean region; and

(4) to encourage and create further economic integration in the Western Hemisphere through free trade arrangements that provide United States business and labor reciprocal benefits through the removal of barriers to trade and investment in goods and services on a mutually advantageous basis.

TITLE I—RELATIONSHIP OF NAFTA IMPLEMENTATION TO THE OPERATION OF THE CARIBBEAN BASIN INITIATIVE

SEC. 101. TEMPORARY PROVISIONS TO PROVIDE NAFTA PARITY TO BENEFICIARY COUNTRY ECONOMIES.

(a) TEMPORARY PROVISIONS.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

"(b) IMPORT-SENSITIVE ARTICLES.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

"(A) textile and apparel articles which are subject to textile agreements;

"(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

"(C) tuna, prepared or preserved in any manner, in airtight containers;

"(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States;

"(E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

"(F) articles to which reduced rates of duty apply under subsection (h).

"(2) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

"(A) EQUIVALENT TARIFF AND QUOTA TREATMENT.—During the transition period—

"(i) the tariff treatment accorded at any time to any textile or apparel article that originates in the territory of a beneficiary country shall be identical to the tariff treatment that is accorded during such time under section 2 of the Annex to a like article that originates in the territory of Mexico and is imported into the United States;

"(ii) duty-free treatment under this title shall apply to any textile or apparel article of a beneficiary country that is imported into the United States and that—

"(I) meets the same requirements (other than assembly in Mexico) as those specified in Appendix 2.4 of the Annex (relating to goods assembled from fabric wholly formed and cut in the United States) for the duty free entry of a like article assembled in Mexico; or

"(II) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country; and

"(iii) no quantitative restriction or consultation level may be applied to the importation into the United States of any textile or apparel article that—

"(I) originates in the territory of a beneficiary country,

"(II) meets the same requirements (other than assembly in Mexico) as those specified in Appendix 3.1.B.10 of the Annex (relating to goods assembled from fabric wholly formed and cut in the United States) for the exemption of a like article assembled in Mexico from United States quantitative restrictions and consultation levels, or

"(III) qualifies for duty-free treatment under clause (ii)(II).

"(B) NAFTA TRANSITION PERIOD TREATMENT OF NONORIGINATING TEXTILE AND APPAREL ARTICLES.—

"(i) PREFERENTIAL TARIFF TREATMENT.—Subject to clause (ii), the United States Trade Representative may place in effect at any time during the transition period with respect to any textile or apparel article that—

"(I) is a product of a beneficiary country; but

"(II) does not qualify as a good that originates in the territory of that country;

tariff treatment that is identical to the preferential tariff treatment that is accorded during such time under Appendix 6.B of the Annex to a like article that is a product of Mexico and imported into the United States.

"(ii) PRIOR CONSULTATION.—The United States Trade Representative may implement the preferential tariff treatment described in clause (i) only after consultation with representatives of the United States textile and apparel industry and other interested parties regarding—

"(I) the specific articles to which such treatment will be extended,

"(II) the annual quantity levels to be applied under such treatment and any adjustment to such levels,

"(III) the allocation of such annual quantities among the beneficiary countries that export the articles concerned to the United States, and

"(IV) any other applicable provision.

"(iii) ADJUSTMENT OF CERTAIN BILATERAL TEXTILE AGREEMENTS.—The United States Trade Representative shall undertake negotiations for purposes of seeking appropriate reductions in the quantities of textile and apparel articles that are permitted to be imported into the United States under bilateral agreements with beneficiary countries in order to reflect the quantities of textile and apparel articles of each respective country that are exempt from quota treatment by reason of paragraph (2)(A)(iii).

"(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A), the United States Trade Representative shall consult with representatives of the beneficiary country for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

"(D) BILATERAL EMERGENCY ACTIONS.—The President may take—

"(i) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article that is a product of Mexico; or

"(ii) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article described in subparagraph (B)(i)(I) and (II) if the importation of such article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article that is a product of Mexico.

"(3) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

"(A) EQUIVALENT TARIFF TREATMENT.—

"(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that originates in the territory of a beneficiary country shall be identical to the tariff treatment that is accorded during such time under Annex 302.2 of the NAFTA to a like article that originates in the territory of Mexico and is imported into the United States. Such articles shall be subject to the provisions for emergency action under

chapter 8 of part two of the NAFTA to the same extent as if such articles were imported from Mexico.

"(ii) EXCEPTION.—Clause (i) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States.

"(B) RELATIONSHIP TO SUBSECTION (h) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

"(4) CUSTOMS PROCEDURES.—The provisions of chapter 5 of part two of the NAFTA regarding customs procedures apply to importations under paragraphs (2) and (3) of articles from beneficiary countries.

"(5) DEFINITIONS.—As used in this subsection—

"(A) The term 'the Annex' means Annex 300-B of the NAFTA.

"(B) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(C) The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

"(D) The term 'transition period' means, with respect to a beneficiary country, the period that begins on the date that the NAFTA enters into force with respect to the United States; and ends on the earlier of—

"(i) the date that is the 3rd anniversary of the date on which the NAFTA enters into force; or

"(ii) the date on which—

"(I) there enters into force with respect to the United States a trade agreement entered into under the authority of section 202(a) of the Caribbean Basin Free Trade Agreements Act and to which the beneficiary country is a party, or

"(II) the beneficiary country accedes to the NAFTA.

"(E) An article shall be treated as having originated in the territory of a beneficiary country if the article meets the rules of origin for a good set forth in chapter 4 of part two of the NAFTA or in Appendix 6.A of the Annex. In applying such chapter 4 or Appendix 6.A with respect to a beneficiary country for purposes of this subsection, no countries other than the United States and beneficiary countries may be treated as being Parties to the NAFTA.".

(b) CONFORMING AMENDMENTS.—The Caribbean Basin Economic Recovery Act is further amended—

(1) by amending section 212(e)(1)(B) to read as follows:

"(B) withdraw, suspend, or limit the application of the duty-free treatment under this subtitle, and the tariff and preferential tariff treatment under section 213(b)(2) and (3), to any article of any country,"; and

(2) by inserting "and except as provided in section 213(b)(2) and (3)," after "Tax Reform Act of 1986," in section 213(a)(1).

TITLE II—CARIBBEAN BASIN FREE TRADE AGREEMENTS

SEC. 201. TRADE AGREEMENT FEASIBILITY AND OBJECTIVES.

As soon as practicable, the United States Trade Representative shall determine the desirability and feasibility of, and a likely timetable for, any country that is a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act, or a group of such beneficiary countries, either—

(1) acceding to—

(A) the North American Free Trade Agreement pursuant to Article 2204 of such Agreement, and

(B) as appropriate, supplemental agreements pertaining to environmental, labor, and import issues; or

(2) entering into comprehensive bilateral or multilateral agreements with the United States that contain provisions that—

(A) are comparable to the provisions of the North American Free Trade Agreement and, as appropriate, to the provisions of supplemental agreements pertaining to environmental, labor, and import issues, and

(B) will achieve the applicable purposes, policies, and objectives set forth in section 212(b) and (c) of the Caribbean Basin Economic Recovery Act and section 1101 of the Omnibus Trade and Competitiveness Act of 1988.

The United States Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the determinations made under this section.

SEC. 202. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) IN GENERAL.—

(1) EFFECTIVE PERIOD OF AUTHORITY.—Before June 1, 1996, the President may enter into trade agreements with one or more beneficiary countries under the Caribbean Basin Economic Recovery Act providing for the elimination or reduction of any duty imposed by the United States and for the reduction or elimination of barriers to, or other distortions of, the international trade of the beneficiary countries or the United States, if each such agreement would comply with section 201(2).

(2) LIMITATION.—Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(b) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) Before the President enters into any trade agreement under subsection (a), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 203.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 203(a), the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

SEC. 203. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) REQUIREMENTS FOR ENTERING INTO FORCE.—Any agreement entered into under section 202(a) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the agreement requirements set forth in section 201(2) (A) and (B), and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the agreement requirements set forth in section 201(2) (A) or (B), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(3) APPLICATION.—To ensure that a foreign country which receives benefits under a trade agreement entered into under section 202(a) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply to implementing bills submitted with respect to trade agreements entered into under section 202(a) before June 1, 1996.

(c) CONFORMING AMENDMENT.—Section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended by striking out "or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988" and inserting ", section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, and section 202(a) of the Caribbean Basin Free Trade Agreements Act".

YANQUI WENT HOME

Latin American governments for some time have doubted whether the Clinton administration accorded much interest to hemispheric affairs. Some of them now may feel that their fears have been confirmed.

The White House barely protested when the House of Representatives approved deep cuts in U.S. assistance to Latin America. If the House has its way, the region will get $751 million in military and non-military aid in 1994, $359 million less than in the current fiscal year and a 50 percent drop from 1992 funding.

It thus appears that Latin America and the Caribbean can expect little aid and abundant hot air from Washington. The emerging U.S. policy stresses "trade ties" with the rest of the hemisphere, even as many in the Clinton administration pander to protectionist forces within and outside the government.

Granted, foreign aid should not be spared the unkindness of cuts at a time of general fiscal austerity in Washington. But the proposed drastic reductions in aid to Latin America and the Caribbean, while reducing the Federal deficit insignificantly, will eliminate or cripple a number of modest programs that give American taxpayers excellent returns on their money.

Some of these efforts effectively strengthen Latin American democracies by providing human rights education, support for judicial reform, and microenterprise assistance. Other worthwhile programs, such as the debt-reduction portion of the Enterprise for the Americas Initiative, have already been butchered in Congress. Capitol Hill has authorized only a small fraction of presidential requests since the Enterprise was launched.

If it is passed by the Senate, the House foreign aid budget for fiscal year 1994 augurs the demise of many invaluable hemispheric programs. That is not wise public policy. If Washington must cut aid to Latin America, it ought to exercise finer discrimination in deciding where to cut. The goal should be to reduce military assistance while expanding programs that contribute to the free-market, democratic reforms that the United States claims to support throughout the hemisphere.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1156. A bill to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the tribe, and for other purposes; to the Committee on Indian Affairs.

CATAWBA INDIAN LAND CLAIMS SETTLEMENT ACT

Mr. HOLLINGS. Mr. President, I rise today along with my colleague Senator THURMOND to introduce the Federal legislation and accompanying amendment necessary to settle the Nonintercourse Act land claims of the Catawba tribe of South Carolina. This bill along with its accompanying amendment is identical in substance to legislation introduced by Congressman DERRICK in the House of Representatives and will resolve once and for all this 153-year-old dispute.

The Catawba Tribe brought its land claim to Federal court in 1980 to recover possession of approximately 144,000 acres located in several counties in South Carolina. Since 1980 there have been numerous court proceedings and extensive settlement negotiations between the Catawba Tribe and affected landowners. A settlement was concluded among parties late last year, and ratified overwhelmingly by the tribe in February 1993.

Mr. President, it is time once and for all to stop the clock from ticking and to end the nail-biting economic uncertainty that has plagued both the Catawbas and current landowners in York, Chester and Lancaster Counties. The settlement agreement calls for restoration of the Catawas as a federally recognized tribe and monetary contributions of $50 million over the next 5 years ($18 million from State and local sources and $32 million from the Federal Government).

Last year, Congress took steps to avoid the threat of some 61,000 individual suits by passing legislation to extend the applicable Federal statute of limitations to October 1, 1993 (Public Law 120-339). Earlier this month, the Governor of South Carolina signed into law the State legislation necessary for implementation of this accord. Today, the bill and amendment introduced by Senator THURMOND and myself provides us with the opportunity to end years of intense negotiations and to enact a fair and equitable settlement. Mr. President, I hope that my colleagues will join me in this effort. I further ask unanimous consent that the text of the bill as well as the accompanying amendment be printed in the RECORD following the conclusion of my remarks.

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

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993".

SEC. 2. DECLARATION OF POLICY, CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress declares and finds that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) There is pending before the United States District Court for the District of South Carolina a lawsuit disputing ownership of approximately 140,000 acres of land in the State of South Carolina and other rights of the Catawba Indian Tribe under Federal law.

(3) The Catawba Indian Tribe has also initiated a related lawsuit against the United States in the United States Court of Federal Claims seeking monetary damages.

(4) Some of the significant historical events which have led to the present situation include:

(A) In treaties with the Crown in 1760 and 1763, the Tribe ceded vast portions of its aboriginal territory in the present States of North and South Carolina in return for guarantees of being quietly settled on a 144,000-acre reservation.

(B) The Tribe's district court suit contended that in 1840 the Tribe and the State entered into an agreement without Federal approval or participation whereby the Tribe ceded its treaty reservation to the State, thereby giving rise to the Tribe's claim that it was dispossessed of its lands in violation of Federal law.

(C) In 1943, the United States entered into an agreement with the Tribe and the State to provide services to the Tribe and its members. The State purchased 3,434 acres of land and conveyed it to the Secretary in trust for the Tribe and the Tribe organized under the Indian Reorganization Act.

(D) In 1959, Congress enacted the Catawba Tribe of South Carolina Division of Assets Act, 25 U.S.C. 931-938. Federal agents assured the Tribe that if the Tribe would release the Government from its obligation under the 1943 agreement and agree to Federal legislation terminating the Federal trust relationship and liquidating the 1943 reservation, the status of the Tribe's land claim would not be jeopardized by termination.

(E) In 1980, the Tribe initiated Federal court litigation to regain possession of its treaty lands and in 1986, the United States Supreme Court ruled in South Carolina against Catawba Indian Tribe that the 1959 Act resulted in the application of State statutes of limitations to the Tribe's land claim. Two subsequent decisions of the United States Court of Appeals for the Fourth Circuit have held that some portion of the Tribe's claim is barred by State statutes of limitations and that some portion is not barred.

(5) The pendency of these lawsuits has led to substantial economic and social hardship for a large number of landowners, citizens and communities in the State of South Carolina, including the Catawba Indian Tribe. Congress recognizes that if these claims are not resolved, further litigation against tens of thousands of landowners would be likely; that any final resolution of pending disputes through a process of litigation would take many years and entail great expenses to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the ownership of property; and seriously impair long-term economic planning and development for all parties.

(6) The 102d Congress has enacted legislation suspending until October 1, 1993, the running of any unexpired statute of limitation applicable to the Tribe's land claim in order to provide additional time to negotiate settlement of these claims.

(7) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve the disputes raised in these lawsuits and to derive certain benefits. The parties' Settlement Agreement constitutes a good faith effort to resolve these lawsuits and other claims and requires implementing legislation by the Congress of the United States, the General Assembly of the State of South Carolina, and the governing bodies of the South Carolina counties of York and Lancaster.

(8) To advance the goals of the Federal policy of Indian self-determination and restoration of terminated Indian tribes, and in recognition of the United States obligation to the Tribe and the Federal policy of settling historical Indian claims through comprehensive settlement agreements, it is appropriate

that the United State participate in the funding and implementation of the Settlement Agreement.

(b) PURPOSE.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the non-Indian settlement parties and the Tribe;

(2) to authorize and direct the Secretary to implement the terms of such Settlement Agreement;

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this Act;

(4) to remove the cloud on titles in the State of South Carolina resulting from the Tribe's land claim; and

(5) to restore the trust relationship between the Tribe and the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the Catawba Indian Tribe of South Carolina as constituted in aboriginal times, which was party to the Treaty of Pine Tree Hill in 1760 as confirmed by the Treaty of Augusta in 1763, which was party also to the Treaty of Nation Ford in 1840, and which was the subject of the Termination Act, and all predecessors and successors in interest, including the Catawba Indian Tribe of South Carolina, Inc.

(2) The term "claim" or "claims" means any claim which was asserted by the Tribe in either Suit, and any other claim which could have been asserted by the Tribe or any Catawba Indian of a right, title or interest in property, to trespass or property damages, or of hunting, fishing or other rights to natural resources, if such claim is based upon aboriginal title, recognized title, or title by grant, patent, or treaty including the Treaty of Pine Tree Hill of 1760, the Treaty of Augusta of 1763, or the Treaty of Nation Ford of 1840.

(3) The term "Executive Committee" means the body of the Tribe composed of the Tribe's executive officers as selected by the Tribe in accordance with its constitution.

(4) The term "Existing Reservation" means that tract of approximately 630 acres conveyed to the State in trust for the Tribe by J.M. Doby on December 24, 1842, by deed recorded in York County Deed Book N, pp. 340-341.

(5) The term "General Council" means the membership of the Tribe convened as the Tribe's governing body for the purpose of conducting tribal business pursuant to the Tribe's constitution.

(6) The terms "internal matters" or "internal tribal matters" mean matters which include (but are not limited to) the relationship between the Tribe and one or more of its Members, the conduct of tribal government over Members, and the Tribe's exercise of the power to exclude individuals from the Reservation.

(7) The term "Member" means individuals who are members of the Tribe as determined in accordance with this Act.

(8) The term "Reservation" or "Expanded Reservation" means the Existing Reservation and the lands added to the Existing Reservation in accordance with section 14 of this Act, which are to be held in trust by the Secretary in accordance with this Act.

(9) The term "Secretary" means the Secretary of the Interior.

(10) The term "Settlement Agreement" means the document entitled "Agreement in Principle" between the Tribe and the State of South Carolina and attached to the copy of the State implementing legislation and filed with the Secretary of State of the State of South Carolina.

(11) The term "State" means, except for sections 6(a) through (f) and subsections (d)(2) and (h) of section 18 of this Act, the State of South Carolina.

(12) The term "Suit" or "Suits" means Catawba Indian Tribe of South Carolina v. State of South Carolina, et al., docketed as Civil Action No. 80-2050 and filed in the United States District Court for the District of South Carolina; and Catawba Indian Tribe of South Carolina v. The United States of America, docketed as Civil Action No. 90-553L and filed in the United States Court of Federal Claims.

(13) The term "Termination Act" means the Act entitled "An Act to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the tribe and for other purposes", approved September 21, 1959 (73 Stat. 592; 25 U.S.C. 931-938).

(14) The term "transfer" includes (but is not limited to) any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event or circumstance that resulted in a change in title to, possession of, dominion over, or control of land, water, minerals, timber, or other natural resources.

(15) The term "Trust Funds" means the trust funds established by section 13 of this Act.

SEC. 4. RESTORATION OF FEDERAL TRUST RELATIONSHIP.

(a) RESTORATION OF THE FEDERAL TRUST RELATIONSHIP.—On the effective date of this Act, the trust relationship between the Tribe and the United States shall be restored.

(b) ELIGIBILITY FOR FEDERAL BENEFITS AND SERVICES.—Notwithstanding any other provision of law, on the same date as the trust relationship is restored, the Tribe and the Members shall be eligible for all benefits and services furnished to federally recognized Indian tribes and their members because of their status as Indians. On the effective date of this Act, the Secretary shall enter the Tribe on the list of federally recognized bands and tribes maintained by the Department of Interior; and its members shall be entitled to special services, educational benefits, medical care, and welfare assistance provided by the United States to Indians because of their status as Indians, and the Tribe shall be entitled to the special services performed by the United States for tribes because of their status as Indian tribes.

(c) HEALTH CARDS.—In addition to any other entitlement or eligibility the Tribe or Members may have because of their status as Indians, the Indian Health Service shall issue health cards for use by any Member in a health care facility of their choosing approved by the Indian Health Service as to quality of care. Such health card shall entitle the Member to the same level of care as is available at any Indian health care facility or through contract health care for Indians.

(d) REPEAL OF TERMINATION ACT.—The Termination Act is repealed, and the provisions of the Termination Act shall not apply to the Tribe or Members after the effective date of this Act.

(e) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this Act, this Act shall not affect any property right or obligation or any contractual right or obligation in existence before the effective date of this Act, or any obligation for taxes levied before that date.

(f) EXTENT OF JURISDICTION.—This Act shall not be construed to empower the Tribe with special jurisdiction or to deprive the State of jurisdiction other than as expressly provided by this Act or by the State implementing legislation. The jurisdiction and governmental powers of the Tribe shall be solely those set forth in this Act and the State implementing legislation.

(g) IMPACT AID.—For purposes of the Act of September 30, 1950 (Public Law 874, 81st Congress; 20 U.S.C. 236 et seq.), if any property within the school district of any local educational agency is occupied by any part of the Expanded Reservation, such local educational agency shall be considered to have fulfilled the requirements of section 2 of such Act and shall be eligible for payments under section 3 of such Act.

SEC. 5. SETTLEMENT FUNDS.

(a) AUTHORIZATION FOR APPROPRIATION.—There is hereby authorized to be appropriated $32,000,000 for the Federal share which shall be deposited in the trust funds established pursuant to section 13 of this Act or paid pursuant to section 6(g).

(b) DISBURSEMENT IN ACCORDANCE WITH SETTLEMENT AGREEMENT.—The Federal Funds appropriated pursuant to this Act shall be disbursed in five equal annual installments of $6,400,000 beginning in the fiscal year following enactment of this Act. Funds transferred to the Secretary from other sources shall be deposited in the trust funds established pursuant to section 13 of this Act or paid pursuant to section 6(g) within 30 days of receipt by the Secretary.

(c) PRIVATE FUNDS.—Any private payments made to settle the claims may be treated, at the election of the taxpayer, as either a payment in settlement of litigation or a charitable contribution for Federal income tax purposes.

(d) FEDERAL, STATE, LOCAL AND PRIVATE CONTRIBUTIONS HELD IN TRUST BY SECRETARY.—The Secretary shall, on behalf of the Tribe, collect those contributions toward settlement appropriated or received by the State pursuant to section 5.2 of the Settlement Agreement and shall either hold such funds totalling $18,000,000, together with the Federal funds appropriated pursuant to this Act, in trust for the Tribe pursuant to the provisions of section 13 of this Act or pay such funds pursuant to section 6(g) of this Act.

SEC. 6. RATIFICATION OF PRIOR TRANSFERS; EXTINGUISHMENT OF ABORIGINAL TITLE, RIGHTS AND CLAIMS.

(a) RATIFICATION OF TRANSFERS.—Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Tribe, any one or more of its Members, or anyone purporting to be a Member, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer. Nothing in this section shall be construed to affect or eliminate the personal claim of any individual Member (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(b) ABORIGINAL TITLE.—To the extent that any transfer of land or natural resources described in subsection (a) of this section may involve land or natural resources to which the Tribe, any of its Members, or anyone purporting to be a Member, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, subsection (a) of

this section shall be regarded as an extinguishment of aboriginal title as of the date of such transfer.

(c) EXTINGUISHMENT OF CLAIMS.—By virtue of the approval and ratification of any transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Tribe, any of its Members, or anyone purporting to be a Member, or any predecessors or successors in interest thereof or any other Indian, Indian Nation, or tribe or band of Indians, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) EXTINGUISHMENT OF TITLE.—(1) All claims and all right, title, and interest that the Tribe, its Members, or any person or group of persons purporting to be Catawba Indians may have to aboriginal title, recognized title, or title by grant, patent, or treaty to the lands located anywhere in the United States are hereby extinguished.

(2) This extinguishment of claims shall also extinguish title to any hunting, fishing, or water rights or rights to any other natural resource claimed by the Tribe or a Member based on aboriginal or treaty recognized title, and all trespass damages and other damages associated with use, occupancy or possession, or entry upon such lands.

(e) BAR TO FUTURE CLAIMS.—The United States is hereby barred from asserting by or on behalf of the Tribe or any of its Members, or anyone purporting to be a Member, any claim arising before the date of enactment of this Act from the transfer of any land or natural resources by deed or other grant, or by treaty, compact, or act of law, on the grounds that such transfer was not made in accordance with the laws of South Carolina or the Constitution or laws of the United States.

(f) NO DEROGATION OF FEE SIMPLE IN EXISTING RESERVATION.—Nothing in this section shall be construed to diminish or derogate from the fee simple estate in the Existing Reservation or fee simple owned by members.

(g) COSTS AND ATTORNEYS' FEES.—The parties to the Suits shall bear their own costs and attorneys' fees except that the Secretary shall approve and pay to the Tribe's attorneys in the Suits reasonable attorneys' fees and expenses not to exceed 10 percent of the $50,000,000 obligated for payment to the Tribe by Federal, State, local, and private parties pursuant to section 5 of the Settlement Agreement.

(h) PERSONAL CLAIMS NOT AFFECTED.—Nothing in this section shall be deemed to affect, diminish, or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability (other than Federal common law fraud) that protects non-Indians as well as Indians.

SEC. 7. TRIBAL MEMBERSHIP.

(a) MEMBERSHIP CRITERIA.—A person shall be considered a member of the Tribe and his or her name shall be carried on the membership roll if the person is living on the date of enactment of this Act and—

(1) his or her name was listed on the membership roll published by the Secretary in the Federal Register on February 25, 1961 (26 Federal Register 1680-1688, "Notice of Final Membership Roll"), and he or she is not excluded under the provisions of subsection (b); or

(2) The Executive Committee determines, based on the criteria used to compile the roll referred to in paragraph (1), that his or her name should have been included on the membership roll at that time, but was not; or

(3) he or she is a lineal descendant of a Member whose name appeared or should have appeared on the membership roll referred to in paragraph (1).

(b) REVISION OF MEMBERSHIP ROLL.—The Tribe shall revise and update its membership roll to include those persons eligible for membership under subsection (a) and excluding any persons found to have been erroneously listed.

(c) FEDERAL REGISTER NOTICE.—As soon as practicable after the enactment of this Act, the Secretary shall publish in the Federal Register a notice stating:

(1) That the rolls of the Tribe are open and will remain open for a period of 90 days.

(2) The requirements for membership.

(3) The final membership roll as of September 21, 1959.

(4) The updated membership roll as prepared by the Executive Committee and approved by the General Council.

(5) The name and address of the tribal or Federal official to whom inquiries should be made.

(d) FINALIZING MEMBERSHIP ROLL.—Within 120 days after publication of notice under subsection (c), the Secretary, after consultation with the Tribe, shall prepare and publish in the Federal Register a proposed final roll of the Tribe's membership. Within 60 days from the date of publication of the proposed final roll, an appeal may be filed with the Executive Committee under rules made by the Executive Committee in consultation with the Secretary. Such an appeal may be filed by a Member with respect to the inclusion of any name on the proposed membership roll and by any person with respect to the exclusion of his or her name from the membership roll. The Executive Committee shall review such appeals and render a decision, subject to the Secretary's approval. If the Executive Committee and the Secretary disagree, the Secretary's decision will be final. All such appeals shall be resolved within 90 days following publication of the proposed roll. The final membership roll of the Tribe shall then be published in the Federal Register and shall be final for purposes of the distribution of funds from the Per Capita Trust Fund.

(e) FUTURE MEMBERSHIP IN THE TRIBE.—The Tribe shall have the right to determine future membership in the Tribe; however, in no event may an individual be added to the final membership roll which is compiled in accordance with subsection (d) unless an individual is a lineal descendent of a person on such final membership roll.

SEC. 8. TRANSITIONAL AND PROVISIONAL GOVERNMENT.

(a) FUTURE TRIBAL GOVERNMENT.—The Tribe shall adopt a new constitution within 24 months after enactment of this Act.

(b) EXECUTIVE COMMITTEE AS TRANSITIONAL BODY.—(1) Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe. For a period not to exceed 24 months from the date of enactment of this Act, the Executive Committee shall—

(A) represent the Tribe and its Members in the implementation of this Act; and

(B) during such period—

(i) have full authority to enter into contracts, grant agreements and other arrangements with any Federal department or agency; and

(ii) have full authority to administer or operate any program under such contracts or agreements.

(2) Until the initial election of tribal officers under a new constitution and by-laws, the Executive Committee shall—

(A) determine tribal membership in accordance with the provisions of section 7; and

(B) oversee and implement the revision and proposal to the Tribe of a new constitution and conduct such tribal meetings and elections as required by this Act.

SEC. 9. TRIBAL CONSTITUTION AND GOVERNANCE.

(a) INDIAN REORGANIZATION ACT.—If the Tribe so elects, it may organize under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). The Tribe shall be subject to such Act except to the extent such sections are inconsistent with this Act.

(b) ADOPTION OF NEW TRIBAL CONSTITUTION.—Within 180 days after the enactment of this Act, the Executive Committee shall draft and distribute to each Member eligible to vote under the Tribal constitution in effect on the date of enactment of this Act, a proposed constitution and bylaws for the Tribe together with a brief, impartial description of the proposed constitution and bylaws and a notice of the date, time and location of the election under this subsection. Not sooner than 30 days or later than 90 days after the distribution of the proposed constitution, the Executive Committee shall conduct a secret-ballot election to adopt a new constitution and bylaws.

(c) MAJORITY VOTE FOR ADOPTION; PROCEDURE IN EVENT OF FAILURE TO ADOPT PROPOSED CONSTITUTION.—(1) The tribal constitution and bylaws shall be ratified and adopted if—

(A) not less than 30 percent of those entitled to vote do vote; and

(B) approved by a majority of those actually voting.

(2) If in any such election such majority does not approve the adoption of the proposed constitution and bylaws, the Executive Committee shall prepare another proposed constitution and bylaws and present it to the Tribe in the same manner provided in this section for the first constitution and bylaws. Such new proposed constitution and bylaws shall be distributed to the eligible voters of the Tribe no later than 180 days after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Executive Committee shall be conducted in the same manner provided in subsection (b) for the election on the first proposed constitution and bylaws.

(d) ELECTION OF TRIBAL OFFICERS.—Within 120 days after the Tribe ratifies and adopts a constitution and bylaws, the Executive Committee shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution and bylaws. Subsequent elections shall be held in accordance with the Tribe's constitution and bylaws.

(e) EXTENSION OF TIME.—Any time periods prescribed in subsections (b) and (c) may be altered by written agreement between the Executive Committee and the Secretary.

SEC. 10. JURISDICTION AND GOVERNANCE OF THE RESERVATION.

(a) POWERS OF TRIBE.—(1) Regardless of whether the Tribe elects to organize under

the Act of June 18, 1934, under section 9(a), in any constitution adopted by the Tribe, the Tribe may be authorized to exercise authority as consistent with the Settlement Agreement and this Act—

(A) to regulate the use and disposition of tribal property;

(B) to define laws, petty crimes, and rules of conduct applicable to Members while on the Reservation, supplementing but not supplanting the criminal laws of the State;

(C) to regulate the conduct of businesses located on the Reservation and individuals residing on the Reservation;

(D) to levy taxes on Members and levy other taxes as provided by this Act and by the Settlement Agreement;

(E) to grant exemptions, abatements, or waivers from any tribal laws, tribal regulations, or tribal taxes, except the Tribal Sales and Use Taxes, otherwise applicable on the Reservation, including waivers of the jurisdiction of any tribal court;

(F) to adopt its own form of government;

(G) to determine membership as provided by this Act;

(H) to exclude non-members from its membership rolls and from the Reservation, except for—

(i) any public roads traversing the Reservation;

(ii) passage on and use of the Catawba River;

(iii) public or private easements encumbering the Reservation properly used by those with authority to use such easements;

(iv) Federal, State and local governmental officials and employees duly performing official governmental functions on the Reservation; and

(v) any other access to the Reservation allowed by Federal law; and

(I) to charter tribally-owned economic development corporations and enterprises provided the corporations or enterprises register with the Secretary of State for South Carolina as a domestic or foreign corporation when doing business off the Reservation.

(2) Except as otherwise provided in this Act and in the Settlement Agreement, the Tribe shall exercise full authority over internal matters.

(b) INDIAN CIVIL RIGHTS ACT.—The Tribe shall be subject to titles II through VII of Public Law 90-284, as amended (25 U.S.C. 1301 et seq.; commonly referred to as the "Indian Civil Rights Act") which shall apply to the Reservation, any tribal court, and anyone subject to the jurisdiction of the Tribe.

SEC. 11. CRIMINAL JURISDICTION.

(a) CRIMINAL JURISDICTION GENERALLY.—Except as provided in subsection (b), the State shall exercise exclusive jurisdiction over all crimes under the statutory or common law of the State of South Carolina.

(b) CRIMINAL JURISDICTION OF TRIBAL COURT.—(1) Any constitution adopted by the Tribe may provide for a tribal court with original and appellate criminal jurisdiction, subject to the following limitations:

(A) The territorial jurisdiction of the court shall be limited to the Reservation.

(B) The jurisdiction of the court over persons shall be limited to Members.

(C) The subject matter jurisdiction of the court shall be limited to crimes within the jurisdiction of the State's Magistrates' Courts and to any additional misdemeanors and petty offenses specified in the ordinances or laws adopted by the Tribe.

(D) The fines and penalties for such misdemeanors and offenses shall not exceed the maximum fines and penalties that a State magistrate's court may impose.

(2) In all cases in which the tribal court has jurisdiction over State law—

(A) its jurisdiction shall be concurrent with the jurisdiction of the Magistrates' Court of the State; and

(B) defendants shall have the right to remove such cases to the Magistrates' Court or appeal their convictions in tribal court cases to the General Sessions Court, in the same manner that Magistrates' Court's decisions may be appealed, or in accordance with such procedures as the South Carolina General Assembly may provide.

(3) In cases where the tribal court is applying those additional ordinances or laws adopted by the Tribe in accordance with this subsection, it shall have exclusive jurisdiction.

(c) PEACE OFFICERS.—For the purpose of enforcing the Tribe's powers under sections 10(a), 11, and 17 of this Act, the Tribe may employ peace officers. The employment and authority of peace officers shall be in the manner prescribed in the Settlement Agreement and the State implementing legislation.

SEC. 12. CIVIL JURISDICTION OF TRIBAL COURT.

(a) JURISDICTION AS PRESCRIBED BY THIS ACT.—(1) The Tribe may provide in its constitution for a Tribal Court having civil jurisdiction which may extend up to, but not exceed, the extent provided by this Act. The Tribe may have a court of original jurisdiction, as well as an appellate court.

(2)(A) With respect to actions on contracts, the Tribal Court may be vested with jurisdiction over the following:

(i) An action on a contract to which the Tribe or a Member is a party, which expressly provides in writing that the Tribal Court has concurrent or exclusive jurisdiction.

(ii) An action on a contract between the Tribe or a Member and other parties or agents thereof who are physically present on the Reservation when the contract is made, which is to be performed in part on the Reservation so long as the contract does not expressly exclude jurisdiction of the Tribal Court.

(iii) An action on a contract to which the Tribe or a member of the Tribe is a party where more than 50 percent of the services to be rendered are performed on the Reservation so long as the contract does not expressly exclude jurisdiction of the Tribal Court.

(B) For purposes of this paragraph, the delivery of goods or the solicitation of business on the Reservation shall not constitute part performance sufficient to confer jurisdiction.

(3) With respect to actions in tort, the Tribal Court may be vested with jurisdiction over the following:

(A) An action arising out of an intentional tort, as defined by South Carolina law, committed on the Reservation in which recovery is sought for bodily injuries and/or damages to tangible property located on the Reservation.

(B) An action arising out of negligent tortious conduct occurring on the Reservation or conduct occurring on the Reservation for which strict liability may be imposed, excluding, however, accidents occurring within the right-of-way limits of any highway, road, or other public easement owned or maintained by the State or any of its subdivisions, or by the United States, which abuts or crosses the Reservation. Any such action in tort involving a non-member of the Tribe as defendant may be removed to a State or Federal court of appropriate jurisdiction if the amount in controversy exceeds the jurisdictional limits then applicable to Magistrate's Courts in the State of South Carolina.

(4) The Tribal Court may be vested with exclusive jurisdiction over internal matters of the Tribe.

(5) The Tribal Court may be vested with jurisdiction over domestic relations where both spouses to the marriage are Members and both reside on the Reservation or last resided together on the Reservation before the separation leading to their divorce.

(6) The Tribal Court may be vested with jurisdiction to enforce against any business located on the Reservation, and any Member or non-Member residing on the Reservation, any tribal civil regulation regulating conduct on the Reservation enacted pursuant to section 10(a) or 17 of this Act. Such persons or entities are charged with notice of the Tribe's regulations governing conduct on the Reservation and are subject to the enforcement of such regulations in the tribal court unless the Tribe has specifically exempted the entity or person from any or all regulation and enforcement in tribal court.

(b) CONCURRENT JURISDICTION.—(1) The original jurisdiction of the Tribal Court over matters set forth in paragraphs (2) (if concurrent), (3), and (5) of subsection (a) shall be concurrent with the jurisdiction of the Court of Common Pleas of South Carolina, the Family Court, and United States District Court for South Carolina where permitted by title 28 of the United States Code.

(2) The original jurisdiction of the Tribal Court over the matters set forth in paragraph (2)(A) of subsection (a) shall be concurrent or exclusive depending upon the agreement of the parties.

(3) The original jurisdiction of the Tribal Court over matters set forth in paragraph (4) of subsection (a) shall be exclusive.

(4) The original jurisdiction of the Tribal Court over matters set forth in paragraph (6) of subsection (a) shall be exclusive unless the Tribe has waived such exclusive jurisdiction as to any person or entity.

(5) As to all paragraphs in subsection (a) referred to in this subsection, jurisdiction over appeals, if any, is governed by subsection (d).

(c) WAIVER OF JURISDICTION.—The Tribe may waive Tribal Court jurisdiction or the application of tribal laws with respect to any person or firm residing, doing business, or otherwise entering upon the Reservation or contracting with the Tribe. Any Member may also waive Tribal Court jurisdiction or specify in a written contract the law of any appropriate jurisdiction to govern any commercial transaction or the interpretation of a contract to which the Member is a party.

(d) APPEALS TO STATE OR FEDERAL COURT.—(1) All final judgments entered in actions tried in Tribal Court shall be subject to an appeal to the Family Court, the Court of Common Pleas, or the United States District Court depending upon whether that court would have had jurisdiction over the appealed matter had it been commenced in that court if—

(A) a party to the suit is not a member of the Tribe;

(B) the amount in controversy or the cost of complying with any equitable order or decree exceeds the jurisdictional limits then applicable in the Magistrate's Court of South Carolina; and

(C) the subject matter of the suit does not fall within the provisions of subsection (a)(2)(A)(i) if jurisdiction is exclusive, or subsection (a)(4) or (6).

(2) The Tribe may enlarge the right of appeal to include other subject matters and

Members, subject to such rules and procedures as the applicable court and relevant State and Federal laws may provide.

(3) In any appeal under this subsection, the court, as appropriate, may—

(A) enter judgment affirming the Tribal Court;

(B) dismiss the case for lack of jurisdiction of the Tribal Court, but only in those cases where the Tribal Court has first addressed the issue of its jurisdiction;

(C) reverse or remand the case for retrial or reconsideration in Tribal Court; or

(D) grant a trial de novo in its court.

(4) In any appeal, trial, or trial de novo pursuant to this subsection, the reviewing court shall apply any regulation enacted pursuant to tribal authority.

(e) FULL FAITH AND CREDIT.—(1) In cases subject to the provisions of subsection (a)(3) or (d), all final judgments of the Tribal Court shall be given full faith and credit in the State or Federal court with appropriate jurisdiction, and the Tribal Court shall give full faith and credit to final judgments of the State and Federal courts.

(2) If a Member seeks to enforce against a non-Member in Federal court a final judgment of the Tribal Court in a case not subject to the provisions of subsection (a)(3) or (d), the judgment shall be reviewed by the Federal court in the manner provided in title 9, United States Code.

(f) SOVEREIGN IMMUNITY.—(1) The Tribe may sue, or be sued, in any court of competent jurisdiction; except, however, that the Tribe shall enjoy sovereign immunity, including damage limits and except as provided in this subsection, immunity from seizure, execution, or encumbrance of properties, to the same extent as the political subdivisions of the State as provided in the South Carolina Tort Claims Act (Section 15-78-10, et seq., S.C. Code Annotated, 1976 as amended), and amendments of general applicability thereto adopted after the date of enactment of this Act. With respect to nonconsumer liability based on contract, however, the Tribe may, in a written contract, provide that it is immune from suit on that contract as if there had been no waiver of sovereign immunity.

(2) Notwithstanding the provisions of this section, the Tribe shall be subject to suit as provided in section 17(a) of this Act.

(3) The nature and extent of this sovereign immunity shall be construed consistent with the Settlement Agreement and with applicable State and Federal law.

(4)(A) The Tribe shall procure and maintain liability insurance with the same coverage and limits as required of political subdivisions of the State.

(B) In the event that the Tribe's insurance coverage is inadequate or unavailable to satisfy a judgment within the limits of the South Carolina Tort Claims Act, neither the judgment nor any other process may be levied upon the corpus or principal of the Tribal Trust Funds or upon any property held in trust for the Tribe by the United States; however, the Tribe or the Secretary shall honor valid orders of a Federal or State court which enters money judgments for causes of action against the Tribe arising after the consummation of the Settlement Agreement by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment or payments of income from the Tribal Trust Funds.

(g) INDIAN CHILD WELFARE ACT.—(1) The Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) shall apply to Catawba Indian children except as provided in this section.

(2) Before the Tribe may assume jurisdiction over Indian child custody proceedings under the Indian Child Welfare Act of 1978, the Tribe shall present to the Secretary for approval a petition to assume such jurisdiction, and the Secretary shall approve the petition in the manner prescribed in such Act. Any petition to assume jurisdiction over Indian child custody proceedings by the Tribe shall be considered and determined by the Secretary in accordance with the relevant provisions of such Act. The Secretary's determination that the Tribe may assume jurisdiction under such Act shall not affect any action or proceeding over which a court has assumed jurisdiction.

(3) Until the Tribe has assumed jurisdiction over Indian child custody proceedings, the State shall retain exclusive jurisdiction over Indian custody proceedings; however, the State Court shall apply the Indian Child Welfare Act of 1978 in such proceedings.

(4)(A) The Indian Child Welfare Act of 1978 shall not apply to private adoptions of Indian children under the jurisdiction of the Tribe under such Act where—

(i) both parents consent to the adoption; or

(ii) in the case of an unwed mother—

(I) where the mother consents to the adoption when the father's consent is not necessary for the adoption under South Carolina Law Section 20-7-1690 and any amendments thereto, and

(II) the parents or mother help choose adoptive parents, regardless of whether or not the adoptive parents are outside the preferences of the Indian Child Welfare Act of 1978.

(B) The court may consider any benefits, material and cultural, the child may lose in determining whether the proposed adoption is in the best interests of the child. Failure of the courts to make this consideration shall not be subsequently held to invalidate the adoption.

(5) In all cases of adoption, regardless of whether the Indian Child Welfare Act of 1978 applies, section 107 of such Act (25 U.S.C. 1917) shall apply.

(h) JURISDICTION OF STATE COURTS.—If no Tribal Court is established by the Tribe, the State shall exercise jurisdiction over all civil and criminal cases arising out of acts and transactions occurring on the Reservation or involving Members. If the Tribe establishes a Tribal Court, the provisions of subsection (b) and section 11(b) shall govern whether such jurisdiction is exclusive or concurrent.

SEC. 13. TRIBAL TRUST FUNDS.

(a) PURPOSES OF TRUST FUNDS.—All funds paid pursuant to section 5 of this Act shall be deposited with the Secretary in trust for the benefit of the Tribe. Separate trust funds shall be established for the following purposes: Economic Development, Land Acquisition, Education, Social Services and Elderly Assistance, and Per-Capita Payments. Except as provided in this section, the Tribe, in consultation with the Secretary, shall determine the share of settlement payments to be deposited in each Trust Fund, and define, consistently with the provisions of this section, the purposes of each Trust Fund and provisions for administering each, specifically including provisions for periodic distribution of current and accumulated income, and for invasion and restoration of principal.

(b) OUTSIDE MANAGEMENT OPTION.—(1) The Tribe, in consultation with and subject to the approval of the Secretary, is authorized to place any of the Trust Funds under professional management, outside the Department of the Interior.

(2) If the Tribe elects to place any of the Trust Funds under professional management outside the Department of the Interior, it may engage a consulting or advisory firm to assist in the selection of an independent professional investment management firm, and it shall engage, with the approval of the Secretary, an independent investment management firm of proven competence and experience established in the business of counseling large endowments, trusts, or pension funds.

(3) The Secretary shall have 45 days to approve or reject any independent investment management firm selected by the Tribe. If the Secretary fails to approve or reject the firm selected by the Tribe within 45 days, the investment management firm selected by the Tribe shall be deemed to have been approved by the Secretary.

(4) Secretarial approval of an investment management firm shall not be unreasonably withheld, and any Secretarial disapproval of an investment management firm shall be accompanied by a detailed explanation setting forth the Secretary's reasons for such disapproval.

(5)(A) For funds placed under professional management, the Tribe, in consultation with the Secretary and its investment manager, shall develop—

(i) current operating and long-term capital budgets; and

(ii) a plan for managing, investing, and distributing income and principal from the Trust Funds to match the requirements of the Tribe's operating and capital budgets.

(B) For each Trust Fund which the Tribe elects to place under outside professional management, the investment plan shall provide for investment of Trust Fund assets so as to serve the purposes described in this section and in the Trust Fund provisions which the Tribe shall establish in consultation with the Secretary and the independent investment management firm.

(C) Distributions from each Trust Fund shall not exceed the limits on the use of principal and income imposed by the applicable provisions of this Act for that particular Trust Fund.

(D)(i) The Tribe's investment management plan shall not become effective until approved by the Secretary.

(ii) Upon submission of the plan by the Tribe to the Secretary for approval, the Secretary shall have 45 days to approve or reject the plan. If the Secretary fails to approve or disapprove the plan within 45 days, the plan shall be deemed to have been approved by the Secretary and shall become effective immediately.

(iii) Secretarial approval of the plan shall not be unreasonably withheld and any secretarial rejection of the plan shall be accompanied by a detailed explanation setting forth the Secretary's reasons for rejecting the plan.

(E) Until the selection of an established investment management firm of proven competence and experience, the Tribe shall rely on the management, investment, and administration of the Trust Funds by the Secretary pursuant to the provisions of this section.

(c) TRANSFER OF TRUST FUNDS; EXCULPATION OF SECRETARY.—Upon the Secretary's approval of the Tribe's investment management firm and an investment management plan, all funds previously deposited in trust funds held by the Secretary and all funds subsequently paid into the trust funds, which are chosen for outside management, shall be transferred to the accounts established by an investment management firm in

accordance with the approved investment management plan. The Secretary shall be exculpated by the Tribe from liability for any loss of principal or interest resulting from investment decisions made by the investment management firm. Any Trust Fund transferred to an investment management firm shall be returned to the Secretary upon written request of the Tribe, and the Secretary shall manage such funds for the benefit of the Tribe.

(d) LAND ACQUISITION TRUST.—(1) The Secretary shall establish and maintain a Catawba Land Acquisition Trust Fund, and until the Tribe engages an outside firm for investment management of this trust fund, the Secretary shall manage, invest, and administer this trust fund. The original principal amount of the Land Acquisition Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The principal and income of the Land Acquisition Trust Fund may be used for the purchase and development of Reservation and non-Reservation land pursuant to the Settlement Agreement, costs related to land acquisition, and costs of construction of infrastructure and development of the Reservation and non-Reservation land.

(3)(A) Upon acquisition of the maximum amount of land allowed for expansion of the Reservation, or upon request of the Tribe and approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section, all or part of the balance of this trust fund may be merged into one or more of the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund.

(B) Alternatively, at the Tribe's election, the Land Acquisition Trust Fund may remain in existence after all the Reservation land is purchased in order to pay for the purchase of non-Reservation land.

(4)(A) The Tribe may pledge or hypothecate the income and principal of the Land Acquisition Trust Fund to secure loans for the purchase of Reservation and non-Reservation lands.

(B) Following enactment of this Act and before the final annual disbursement is made as provided in section 5 of this Act, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid to this Trust Fund, the Economic Development Trust Fund and the Social Services and Elderly Assistance Trust Fund by section 5 of this Act and by section 5 of the Settlement Agreement, to secure loans to finance the acquisition of Reservation or non-Reservation land or infrastructure improvements on such lands.

(e) ECONOMIC DEVELOPMENT TRUST.—(1) The Secretary shall establish and maintain a Catawba Economic Development Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of the Economic Development Trust Fund shall be determined by the Tribe in consultation with the Secretary. The principal and income of this Trust Fund may be used to support tribal economic development activities, including but not limited to infrastructure improvements and tribal business ventures and commercial investments benefiting the Tribe.

(2) The Tribe, in consultation with the Secretary, may pledge or hypothecate future income and up to 50 percent of the principal of this Trust Fund to secure loans for economic development. In defining the provisions for administration of this Trust Fund, and before pledging or hypothecating future income or principal, the Tribe and the Secretary shall agree on rules and standards for the invasion of principal and for repayment or restoration of principal, which shall encourage preservation of principal, and provide that, if feasible, a portion of all profits derived from activities funded by principal be applied to repayment of the Trust Fund.

(3) Following the enactment of this Act and before the final annual disbursement is made as provided in section 5 of this Act, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid by section 5 of this Act and by section 5 of the Settlement Agreement to secure loans to finance economic development activities of the Tribe, including (but not limited to) infrastructure improvements on Reservation and non-Reservation lands.

(4) If the Tribe develops sound lending guidelines approved by the Secretary, a portion of the income from this Trust Fund may also be used to fund a revolving credit account for loans to support tribal businesses or business enterprises of tribal members.

(f) EDUCATION TRUST.—The Secretary shall establish and maintain a Catawba Education Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary; subject to the requirement that upon completion of all payments into the Trust Funds, an amount equal to at least ⅓ of all State, local, and private contributions made pursuant to the Settlement Agreement shall have been paid into the Education Trust Fund. Income from this Trust Fund shall be distributed in a manner consistent with the terms of the Settlement Agreement. The principal of this Trust Fund shall not be invaded or transferred to any other Trust Fund, nor shall it be pledged or encumbered as security.

(g) SOCIAL SERVICES AND ELDERLY ASSISTANCE TRUST.—(1) The Secretary shall establish and maintain a Catawba Social Services and Elderly Assistance Trust Fund and, until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Social Services and Elderly Assistance Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The income of this Trust Fund shall be periodically distributed to the Tribe to support social services programs, including (but not limited to) housing, care of elderly, or physically or mentally disabled Members, child care, supplemental health care, education, cultural preservation, burial and cemetery maintenance, and operation of tribal government.

(3) The Tribe, in consultation with the Secretary, shall establish eligibility criteria and procedures to carry out this subsection.

(h) PER CAPITA PAYMENT TRUST FUND.—(1) The Secretary shall establish and maintain a Catawba Per Capita Payment Trust Fund in an amount equal to 15 percent of the settlement funds paid pursuant to section 5 of the Settlement Agreement. Until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Catawba Per Capita Payment Trust Fund.

(2) Each person whose name appears on the final roll of the Tribe published by the Secretary pursuant to section 7(c) of this Act will receive a one-time, non-recurring payment from this Trust Fund.

(3) The amount payable to each member shall be determined by dividing the trust principal and any accrued interest thereon by the number of members on the final roll.

(4)(A) Subject to the provisions of this paragraph, each enrolled member who has reached the age of 21 years on the date the final roll is published shall receive the payment on the date of distribution, which shall be as soon as practicable after date of publication of the final roll. Adult Members shall be paid their pro rata share of this Trust Fund on the date of distribution unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of adult Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of Members who have not attained the age of 21 years on the date the final roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No member may elect to have their pro rata share managed by this Trust Fund for a period of more than 21 years after the date of publication of the final roll.

(5)(A) Subject to the provisions of this paragraph, the pro rata share of any Member who has not attained the age of 21 years on the date the final roll is published shall be managed, invested and administered pursuant to the provisions of this section until such Member has attained the age of 21 years, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of payment. Such Members shall be paid their pro rata share of this Trust Fund on the date they attain 21 years of age unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of such Members who elect not to withdraw their payment from this trust fund shall be managed, invested and administered, together with the funds of members who have not attained the age of 21 years on the date the final roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No Member may elect to have their pro rata share retained and managed by this Trust Fund beyond the expiration of the period of 21 years after the date of publication of the final roll.

(6) After payments have been made to all Members entitled to receive payments, this Trust Fund shall terminate, and any balance remaining in this Trust Fund shall be merged into the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund, as the Tribe may determine.

(i) DURATION OF TRUST FUNDS.—Subject to the provisions of this section and with the exception of the Catawba Per Capita Payment Trust Fund, the Trust Funds established in accordance with this section shall

continue in existence so long as the Tribe exists and is recognized by the United States. The principal of these Trust Funds shall not be invaded or distributed except as expressly authorized in this Act or in the Settlement Agreement.

(j) TRANSFER OF MONEY AMONG TRUST FUNDS.—The Tribe, in consultation with the Secretary, shall have the authority to transfer principal and accumulated income between Trust Funds only as follows:

(1) Funds may be transferred among the Catawba Economic Development Trust Fund, the Catawba Land Acquisition Trust Fund and the Catawba Social Services and Elderly Assistance Trust Fund, and from any of those three Trust Funds into the Catawba Education Trust Fund; except, that the mandatory share of State, local, and private sector funds invested in the original corpus of the Catawba Education Trust Fund shall not be transferred to any other Trust Fund.

(2) Any Trust Fund, except for the Catawba Education Trust Fund, may be dissolved by a vote of two-thirds of those Members eligible to vote, and the assets in such Trust Fund shall be transferred to the remaining Trust Funds; except, that (A) no assets shall be transferred from any of the Trust Funds into the Catawba Per Capita Payment Trust Fund, and (B) the mandatory share of State, local and private funds invested in the original corpus of the Catawba Education Trust Fund may be not be transferred or used for any non-educational purposes.

(3) The dissolution of any Trust Fund shall require the approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section.

(k) TRUST FUND ACCOUNTING.—(1) The Secretary shall account to the Tribe periodically, and at least annually, for all Catawba Trust Funds being managed and administered by the Secretary. The accounting shall—

(A) identify the assets in which the Trust Funds have been invested during the relevant period;

(B) report income earned during the period, distinguishing current income and capital gains;

(C) indicate dates and amounts of distributions to the Tribe, separately distinguishing current income, accumulated income, and distributions of principal; and

(D) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(2)(A) Any outside investment management firm engaged by the Tribe shall account to the Tribe and separately to the Secretary at periodic intervals, at least quarterly. Its accounting shall—

(i) identify the assets in which the Trust Funds have been invested during the relevant period;

(ii) report income earned during the period, separating current income and capital gains;

(iii) indicate dates and amounts of distributions to the Tribe, distinguishing current income, accumulated income, and distributions of principal; and

(iv) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(B) Prior to distributing principal from any Trust Fund, the investment management firm shall notify the Secretary of the proposed distribution and the Tribe's proposed use of such funds, following procedures to be agreed upon by the investment management firm, the Secretary, and the Tribe. The Secretary shall have 15 days within which to object in writing to any such invasion of principal. Failure to object will be deemed approval of the distribution.

(C) All Trust Funds held and managed by any investment management firm shall be audited annually by a certified public accounting firm approved by the Secretary, and a copy of the annual audit shall be submitted to the Tribe and to the Secretary within four months following the close of the Trust Funds' fiscal year.

(l) REPLACEMENT OF INVESTMENT MANAGEMENT FIRM AND MODIFICATION OF INVESTMENT MANAGEMENT PLAN.—The Tribe shall not replace the investment management firm approved by the Secretary without prior written notification to the Secretary and approval by the Secretary of any investment management firm chosen by the Tribe as a replacement. Such Secretarial approval shall be given or denied in accordance with the Secretarial approval provisions contained in subsection (b)(5)(D) of this section. The Tribe and its investment management firm shall also notify the Secretary in writing of any revisions in the investment management plan which materially increase investment risk or significantly change the investment management plan, or the agreement, made in consultation with the Secretary pursuant to which the outside management firm was retained.

(m) TRUST FUNDS NOT COUNTED FOR CERTAIN PURPOSES; USE AS MATCHING FUNDS.—None of the funds, assets, income, payments, or distributions from the trust funds established pursuant to this section (except funds distributed from the Catawba Per Capita Trust Fund) shall at any time affect the eligibility of the Tribe or its Members for, or be used as a basis for denying or reducing funds to the Tribe or its Members under any Federal, State, or local program. Distributions from these Trust Funds may be used as matching funds, where appropriate, for Federal grants or loans.

SEC. 14. ESTABLISHMENT OF EXPANDED RESERVATION.

(a) EXISTING RESERVATION.—The State, after obtaining any necessary judicial approval, shall convey the Existing Reservation to the United States as trustee for the Tribe, and the obligation of the State as trustee for the Tribe with respect to this land shall cease.

(b) EXPANDED RESERVATION.—(1) The Secretary, in consultation with the Tribe, shall develop an Expanded Reservation in the manner prescribed by the Settlement Agreement.

(2) The Secretary, after consulting with the Tribe, shall engage a professional land planning firm and a registered land surveyor as provided in the Settlement Agreement. The Secretary will bear the cost of all services rendered by the surveyor and the planning firm.

(3) After the effective date of this Act, the Secretary, in consultation with the Tribe, may identify, purchase, and place in Reservation status tracts of lands in the manner prescribed by the Settlement Agreement.

(4) The Secretary shall bear the cost of all title examinations, preliminary subsurface soil investigations, and level one environmental audits to be performed on each parcel contemplated for purchase for the Expanded Reservation, and shall report the results to the Tribe. Payment of any option fee and the purchase price shall be drawn from the Catawba Land Acquisition Trust Fund.

(5) The total area of the Expanded Reservation shall be limited to 3,000 acres, including the Existing Reservation, but the Tribe may exclude from this limit up to 600 acres of additional land under the conditions set forth in the Settlement Agreement. The Tribe may seek to have the permissible area of the Expanded Reservation enlarged by an additional 600 acres as set forth in the Settlement Agreement.

(6) All lands acquired by the Secretary for the Expanded Reservation will be held in trust together with the Existing Reservation which the State is to convey to the United States.

(c) EXPANSION ZONES.—(1) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Secretary and the Tribe shall endeavor at the outset to acquire contiguous tracts for the Expanded Reservation in the "Catawba Reservation Primary Expansion Zone", as defined in the Settlement Agreement.

(2) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Secretary, in consultation with the Tribe, may elect to purchase contiguous tracts in an alternative area, the "Catawba Reservation Secondary Expansion Zone", as defined in the Settlement Agreement.

(3) The Tribe may propose different or additional expansion zones subject to the approval of the Secretary and to the additional authorizations required in the Settlement Agreement and the State implementing legislation.

(d) NON-CONTIGUOUS TRACTS.—The Secretary, acting on behalf of the Tribe, shall take such actions as are reasonable to expand the Existing Reservation by assembling a composite tract of contiguous parcels that border and surround the Existing Reservation. Before placing any non-contiguous tract in Reservation status, the Tribe, in consultation with the Secretary, shall submit to the county council in any county where it proposes to purchase such non-contiguous tracts a Non-Contiguous Development Plan Application, as provided by the Settlement Agreement and the State implementing legislation. Upon the approval of any such application by each affected county council, the Secretary, in consultation with the Tribe, may proceed to place non-contiguous tracts in Reservation status. No purchases of non-contiguous tracts shall be made for the Reservation except as set forth in the Settlement Agreement and the State implementing legislation.

(e) VOLUNTARY LAND PURCHASES.—(1) The power of eminent domain shall not be used by the Secretary or any governmental authority in acquiring parcels of land for the benefit of the Tribe, whether or not the parcels are to be part of the Reservation. All such purchases shall be made only from willing sellers by voluntary conveyances subject to the terms of the Settlement Agreement.

(2) Conveyances by private land owners to the Secretary for the Expanded Reservation will be deemed, however, to be involuntary conversions within the meaning of section 1033 of the Internal Revenue Code of 1986.

(3) Notwithstanding any other provision of this section and the provisions of the first section of the Act of August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257), and the first section of the Act of February 26, 1931 (ch. 307, 46 Stat. 1421; 40 U.S.C. 258a), the Secretary may acquire Reservation land for the benefit of the Tribe from the ostensible owner of the land if the Secretary and the ostensible owner have agreed upon the identity of the

land to be sold and upon the purchase price and other terms of sale. If the ostensible owner agrees to the sale, the Secretary may use condemnation proceedings to perfect or clear title and to acquire any interests of putative co-tenants whose address is unknown or the interests of unknown or unborn heirs or persons subject to mental disability.

(f) TERMS AND CONDITIONS OF ACQUISITION.—All properties acquired by the Secretary for the Tribe shall be acquired in fee simple subject to the terms and conditions set forth in the Settlement Agreement. The Secretary, acting on behalf of the Tribe and with its consent, is also authorized to acquire Reservation and non-Reservation lands using the methods of financing described in the Settlement Agreement.

(g) AUTHORITY TO ERECT PERMANENT IMPROVEMENTS ON EXISTING AND EXPANDED RESERVATION LAND AND NON-RESERVATION LAND HELD IN TRUST.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys to the United States lands purchased pursuant to the provisions of this section and the Settlement Agreement. The Secretary or the Tribe may erect permanent improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.

(h) EASEMENTS OVER RESERVATION.—(1) The acquisition of lands for the Expanded Reservation shall not extinguish any easements or rights-of-way then encumbering such lands unless the Secretary or the Tribe enters into a written agreement with the owners terminating such easements or rights-of-way.

(2)(A) The Secretary, with the approval of the Tribe, shall have the power to grant or convey easements and rights-of-way, in a manner consistent with the Settlement Agreement.

(B) Unless the Tribe and the State agree upon a valuation formula for pricing easements over the Reservation, the Secretary shall be subject to proceedings for condemnation and eminent domain to acquire easements and rights-of-way for public purposes through the Reservation under the laws of the State in circumstances where no other reasonable access is available.

(C) With the approval of the Tribe, the Secretary may also grant easements or rights-of-way over the Reservation for private purposes, and implied easements of necessity shall apply to all lands acquired by the Tribe, unless expressly excluded by the parties.

(i) JURISDICTIONAL STATUS.—Only land made part of the Reservation shall be governed by the special jurisdictional provisions set forth in this Act and the Settlement Agreement.

(j) SALE AND TRANSFER OF RESERVATION LANDS.—At the request of the Tribe, and with approval of the Secretary, the Secretary may sell, exchange, or lease lands within the Reservation, and sell timber or other natural resources on the Reservation under circumstances and in the manner prescribed by the Settlement Agreement.

(k) TIME LIMIT ON ACQUISITIONS.—All acquisitions of contiguous land to expand the Reservation or of non-contiguous lands to be placed in Reservation status shall be completed or under contract of purchase within 10 years from the date the last payment is made into the Land Acquisition Trust; except that for a period of 20 years after the date the last payment is made into the Catawba Land Acquisition Trust Fund, the Tribe may, subject to the limitation on the total size of the Reservation, continue to add parcels to up to two Reservation areas so long as the parcels acquired are contiguous to one of those two Reservation areas.

(l) LEASES OF RESERVATION LANDS.—The provisions of the first section of the Act of August 9, 1955 (ch. 615, 69 Stat. 539; 25 U.S.C. 415) shall not apply to the Tribe and its Reservation. The Tribe shall be authorized to lease its Reservation lands for terms up to but not exceeding 99 years.

(m) NON-APPLICABILITY OF BIA LAND ACQUISITION REGULATIONS.—The general land acquisition regulations of the Bureau of Indian Affairs, contained in part 151 of title 25, Code of Federal Regulations, shall not apply to the acquisition of lands authorized by this section.

SEC. 15. NON-RESERVATION PROPERTIES.

(a) ACQUISITION OF NON-RESERVATION PROPERTIES.—(1) The Tribe may draw upon the corpus or accumulated income of the Catawba Land Acquisition Trust Fund or the Catawba Economic Development Trust Fund to acquire and hold parcels of real estate outside the Reservation for the purposes and in the manner delineated in the Settlement Agreement.

(2) If the ownership of any such properties by the Secretary or the Tribe, or any sub-entity of the Tribe, results in the removal of the property from ad valorem taxation, then payments shall be made by the Tribe in lieu of taxation that are equivalent to the taxes that would otherwise be paid if the property were subject to levy.

(3) Notwithstanding any other provision of law, the Tribe may lease, sell, mortgage, restrict, encumber, or otherwise dispose of such non-Reservation lands in the same manner as other persons and entities under State law, and the Tribe as land owner shall be subject to the same obligations and responsibilities as other persons and entities under State, Federal, and local law.

(4) Ownership and transfer of non-Reservation parcels shall not be subject to Federal law restrictions on alienation, including (but not limited to) the restrictions imposed by Federal common law and the provisions of the section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) JURISDICTION ON NON-RESERVATION PROPERTIES.—(1) All non-Reservation properties, including such properties held by the Tribe as a corporate entity and such properties held in trust by the United States, and all activities conducted on such properties, shall be subject to the laws, ordinances, taxes, and regulations of the State and its political subdivisions in the same manner as such laws, ordinances, taxes, and regulations would apply to any other properties held by non-Indians in the same jurisdiction, except as provided in section 16 of this Act.

(2) Activities on non-Reservation land shall be eligible for Federal grants and other Federal services for the benefit of Indians.

SEC. 16. GAMES OF CHANCE.

(a) INAPPLICABILITY OF INDIAN GAMING REGULATORY ACT.—The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply to the Tribe.

(b) GAMES OF CHANCE GENERALLY.—The Tribe shall have the rights and responsibilities set forth in the Settlement Agreement and the State implementing legislation with respect to the conduct of games of chance. Except as specifically set forth in the Settlement Agreement, the State implementing legislation, and this Act, all laws, ordinances, and regulations of the State, and its political subdivisions, shall govern the regulation of gambling devices and the conduct of gambling or wagering by the Tribe on and off the Reservation.

SEC. 17. GOVERNANCE AND REGULATION OF RESERVATION.

(a) ENVIRONMENTAL LAWS.—(1) All Federal, State, and local environmental laws and regulations shall apply to the Tribe and to the Reservation, and shall be fully enforceable by all Federal, State, and local agencies and authorities. Similarly, all requirements that a license, permit, or certificate be obtained from any Federal, State, or local agency shall also apply to the Tribe and to the Reservation. This provision shall extend without limitation to all environmental laws and regulations adopted after the date of enactment of this Act.

(2) The Tribe, the Executive Committee, and all Members shall have the same—and no special or preferential—status under all such laws as other individuals or groups of individuals to contest, object to, or intervene in any proceeding or action in which environmental regulations are being made, adjudicated, or enforced, or in which licenses, permits, or certificates of convenience and necessity are being issued by any agency of Federal, State, or local government.

(3) The Tribe shall have the authority to impose regulations applying higher environmental standards to the Reservation than those imposed by Federal or State law or by local governing bodies; but such tribal regulations shall apply only to the Reservation, and not to property surrounding the Reservation or non-Reservation property, or to the use of the Catawba River. Such tribal regulations shall not apply to activities or uses off the Reservation, even if those activities affect air quality on the Reservation.

(4) The Tribe shall not be authorized to invoke sovereign immunity against any suit, proceeding, or environmental enforcement action involving any Federal, State, or local environmental laws or regulations, and shall be subject to all enforcement orders, restraining orders, fees, fines, injunctions, judgments, and other corrective or remedial measures imposed by such laws.

(5) This section shall not impose different standards or requirements on the Tribe or the Secretary, when acting on the Tribe's behalf, than would be applied to a private corporation.

(b) BUILDING CODE.—The Tribe shall incorporate by reference and adopt the York County Building Code, and any amendments thereto adopted after the date of enactment of this Act, and may contract with York County, South Carolina, for the services necessary to enforce, inspect, and regulate compliance with its Building Code. Such services shall be provided by York County as provided in the Settlement Agreement. In addition, those local jurisdictions which exact any fee, permit, or inspection services shall waive the fees otherwise charged for building permit or inspection services on the Reservation. The Tribe may adopt building code provisions to be applied on the Reservation in addition to, but not in derogation of, the York County Building Code, as amended from time to time.

(c) PLANNING AND ZONING.—With respect to any land use regulation within the Reservation, the Tribe shall have the power to adopt and enforce a land use plan after consultation with York County and Lancaster County, for those parts of the Reservation located in those respective jurisdictions. The Tribe and the affected governing bodies shall follow the consultative procedures created for settlement of the claim of the Puyallup

Tribe in the State of Washington, as set out in House Report 101-57, pages 161-64, of the 101st Congress. In determining whether to permit the construction of any buildings or improvements on the Reservation, the Tribe shall consider—

(1) the protection of established or planned residential areas from any use or development that would adversely affect residential living off the Reservation;

(2) protection of the health, safety, and welfare of the surrounding community;

(3) preservation of open spaces, rivers, and streams; and

(4) provision of public facilities to support development.

(d) HEALTH CODES.—All public health codes of the State and any county in which the Reservation is located shall be applicable on the Reservation.

(e) HUNTING AND FISHING.—Subject to the provisions of section 17.5 of the Settlement Agreement concerning the acquisition of hunting and fishing licenses, hunting and fishing, on or off the Reservation, shall be conducted by members in compliance with the laws and regulations of the State.

(f) RIPARIAN RIGHTS.—(1) The littoral and riparian rights of the Tribe in the Catawba River, or in any other streams or waters crossing their lands, shall not differ in any respect from the rights of other owners whose land abuts non-tidal bodies of water or non-tidal water courses in South Carolina. The rights and obligations covered by this provision shall include, but not be limited to—

(A) the title to the river bed;

(B) the right to flood, pond, dam, and divert waters to the river or its tributaries;

(C) the right to build docks and piers in the river;

(D) the right to fish in the river or its tributaries; and

(E) the right to discharge waste or withdraw water from the river or its tributaries.

(2) The Tribe shall have the same rights and standing as all other riparian owners and users of the Catawba River to intervene in any proceeding or otherwise to contest or object to proposed actions or determinations of the Federal Energy Regulatory Commission or of any other governmental agency, commission, or court, whether Federal, State, or local, with respect to the use of the Catawba River and its basin, including (without limitation) withdrawal of water from the river; navigability on the river; and water power and hydroelectric usage of the river.

(3) Notwithstanding any other provision of law effective now or adopted after the date of enactment of this Act, the Tribe shall have no special right or preferential standing greater than other riparian owners and users of the Catawba River to intervene in or contest any such agency action, determination, or proceeding, including specifically any actions or determinations by the Federal Energy Regulatory Commission regarding the licensing, use, or operation of the waters impounded by the existing reservoirs above and below the Reservation. These qualifications shall apply to the Existing Reservation, to lands acquired for the Expanded Reservation, to other lands acquired by or for the benefit of the Tribe, and to non-Reservation lands.

(g) ALCOHOLIC BEVERAGES.—Alcohol shall be prohibited on the Reservation unless the Tribe adopts laws permitting the sale, possession, or consumption of alcohol on the Reservation consistent with the terms of the Settlement Agreement.

SEC. 18. GENERAL PROVISIONS.

(a) GENERAL APPLICABILITY OF STATE LAW.—The Tribe, its Members, and any lands, natural resources, or other property owned by the Tribe or its Members (including any land or natural resources or other property held in trust by the United States or by any other person or entity for the Tribe) shall be subject to the civil, criminal, and regulatory jurisdiction of the State, its agencies and political subdivisions other than municipalities, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person, citizen or land in the State except as otherwise expressly provided in this Act and by the State implementing legislation.

(b) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—The provisions of any Federal law enacted after the date of enactment of this Act shall not apply in the State if such provision would materially affect or preempt the application of the laws of the State, including application of the laws of the State applicable to lands owned by or held in trust for Indians, or Indian Nations, tribes or bands of Indians. However, such Federal law shall apply within the State if the State grants its approval by a law or joint resolution enacted by the General Assembly of South Carolina and signed by the Governor.

(c) SEVERABILITY.—If any of the provisions of sections 4(a), 5 or 6 of this Act are held invalid by a court, then all of this Act is invalid. Should any other section of this Act be held invalid by a court, the remaining sections of this Act shall remain in full force and effect.

(d) INTERPRETATION CONSISTENT WITH SETTLEMENT AGREEMENT.—Wherever possible, this Act shall be construed in a manner consistent with the Settlement Agreement. In the event of a conflict between the provisions of this Act and the Settlement Agreement, the terms of this Act shall govern. The Settlement Agreement shall be maintained on file and available for public inspection at the Department of the Interior.

SEC. 19. EFFECTIVE DATE.

The provisions of this Act shall become effective upon the transfer of the Existing Reservation to the Secretary.

At the appropriate place in the bill, insert the following:

SEC. . TAXATION.

(a) INDIAN TRIBAL GOVERNMENT TAX STATUS ACT.—Section 7871 of the Internal Revenue Code of 1986 (26 U.S.C. 7871; commonly referred to as the "Indian Tribal Government Tax Status Act) shall apply to the Tribe and its Reservation. In no event, however, may the Tribe pledge or hypothecate the income or principal of the Catawba Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

(b) GENERAL TAX LIABILITY.—The Tribe, its Members, the Tribal Trust Funds, and any other persons or entities affiliated with or owned by the Tribe, Members, or the Tribal Trust Funds, whether resident or located or doing business on the Reservation or off the Reservation, shall be subject to all Federal, State, and local taxes, licenses, levies, and fees except as expressly provided in this section or in the State implementing legislation. Any other person or business entity which locates, operates, or does business on the Reservation shall be subject without exception to all Federal, State, and local taxes, licenses, and fees, unless otherwise expressly provided in this section. To the extent that the Tribe may be subject to any taxes under this section, the Tribe shall be taxed as if it were a business corporation incorporated under the laws of South Carolina unless otherwise expressly provided.

(c) TAXES ON GAMES OF CHANCE.—(1) If the Tribe elects to sponsor and conduct games of bingo under the provisions of section 16 of this Act, no Federal, State, or local taxes shall apply to the Tribe's bingo revenues except for the special bingo tax provided in the State implementing legislation. If the Tribe elects to sponsor and conduct games of bingo under a regular license allowed non-profit organizations under the State's Bingo Act (Title 12, Chapter 21, Article 23, South Carolina Code of Laws, 1976), the Tribe shall be taxed as a non-profit corporation under that Act with respect to all revenues generated from the bingo games.

(2) Should the Tribe obtain a license to operate electronic play devices as provided by the State implementing legislation, the Tribe shall be subject to all taxes, license requirements and fees governing electronic play devices provided by State law.

(d) INCOME TAXES.—(1) Income of the Tribe, subdivisions and governmental agencies of the Tribe, including entities owned by the Tribe or the Federal Government and the Tribal Trust Funds, and tax revenues collected by the Tribe by levy or assessment, shall be non-taxable for Federal income tax purposes to the extent provided by Federal law for recognized or restored Indian Tribes. Any tribal income and tax revenues which are non-taxable for Federal income tax purposes because of the Tribe's status as a recognized or restored Indian Tribe shall also be non-taxable for purposes of State income taxes and local income taxes.

(2)(A) Except as provided in this subsection, Members shall be liable for payment of Federal, State, and local income taxes to the same extent as any other person in the State.

(B) Income earned by Members for work performing governmental functions solely on the Reservation shall be exempt from State taxes for a period of 99 years after the effective date of this Act.

(C) Income earned by Members from the sale of Catawba Indian pottery and artifacts, whether on or off the Reservation, which are made by Members, shall be exempt from Federal, State, and local income taxes.

(D) For purposes of Federal income taxes, the income of Members earned on the Reservation shall be taxable to the extent provided by Federal law for members of recognized or restored Indian tribes.

(E) No funds distributed per capita pursuant to section 13(h) of this Act shall be subject at the time of distribution to Federal, State, and local income taxes; however, income subsequently earned on shares distributed to Members shall be subject to the same Federal, State, and local income taxes as other persons in the State would pay.

(F) Compensation paid to members of the Executive Committee shall be subject to Federal payroll taxes to the extent provided by Federal law for members of tribal councils of recognized or restored Indian tribes.

(3) Any person or other entity which is not exempt from income taxes under provisions of this section shall be liable for all Federal, State, and local income taxes otherwise due regardless of whether they are doing business on the Reservation.

(e) REAL PROPERTY TAXES.—(1) The Reservation and all non-residential buildings, fixtures, and real property improvements owned by the Tribe or held in trust by the United States for the Tribe on the Reservation shall be exempt from all property taxes levied by the State or by any political subdivision of the State. If the Tribe owns a partial interest in property or a business, the

property tax exemption provided in this section is applicable to the extent of the Tribe's interest.

(2) Single and multi-family residences, including mobile homes, that are situated on the Reservation shall be exempt from all property taxes levied by the State or by any political subdivision of the State, if they are owned by the Tribe, Members, or Tribal Trust Funds and meet the requirements of the State implementing act concerning the ownership and occupation of single and multifamily residences.

(3) All buildings, fixtures, and real property improvements located on the Reservation which are not exempt from real property taxes under subsections (e)(1) and (e)(2) of this section, shall be subject to all property taxes levied by the State or any political subdivision of the State to the same extent that similar buildings, fixtures, or improvements are assessed and taxed elsewhere in the same jurisdiction. However, the underlying land or leasehold in the land shall not be subject to real property taxes. All buildings, fixtures, and improvements subject to real property taxes shall be eligible for any tax abatement or temporary exemption allowed new business investments to the same extent as similar properties qualify for exemption or abatement in the same county.

(4) The Tribe is authorized to levy taxes on buildings, fixtures, improvements, and personal property located on the Reservation, even though such properties may be exempt from property taxation by the State or its subdivisions, and may use such tax revenues for appropriate tribal purposes. The Tribe may also exempt or abate any such taxes. York and Lancaster Counties and the South Carolina Tax Commission will provide in accordance with the Settlement Agreement the necessary assistance to the Tribe if the Tribe chooses to assess tribal property taxes as if they were property taxes imposed by a political subdivision.

(5) Real property and improvements owned by the Tribe or Members, or both, and not located on the Reservation shall be subject to all property taxes levied by the State, the county, the school district, special purpose districts, and other political subdivisions where such property is located.

(6) To the extent that any non-Reservation real property held in trust by the Secretary is not taxable for property tax purposes, it shall be subject to the payment of a fee or fees in an amount equivalent to the real property tax that would have been paid to the applicable taxing authority had the property not been held in trust.

(f) PERSONAL PROPERTY TAXES.—(1) For a period of 99 years after the effective date of this Act, all personal property owned by the Tribe and used solely on the Reservation shall be exempt from personal property taxes. During such period motor vehicles owned by the Tribe shall be exempt from personal property taxes even if used off the Reservation.

(2) All personal property owned by Members shall be subject to personal property taxes levied by the State or political subdivision of the State where the property is deemed to be located.

(3) All personal property located on the Reservation which is not exempt from personal property taxes under subsection (f)(1) of this section shall be subject to personal property taxes levied by the State or by any political subdivision of the State encompassing the Reservation to the same extent that similar personal property is assessed and taxed elsewhere in the jurisdiction.

(4) For purposes of subsections (e) and (f) of this section, the determination of whether the Tribe is the owner of property shall be made in the same manner as is used by the State for other taxpayers for State property tax purposes.

(g) LEVY AGAINST PROPERTY FOR FAILURE TO PAY PROPERTY TAXES.—(1) Subject to perfected security interests, if any person or entity (referred to in this subsection as the "taxpayer") who is subject to property taxes under subsections (e) and (f) of this section fails to pay such taxes, the appropriate taxing authority for the county or other political subdivision shall have the power to levy against personal property subject to personal property taxes owned by the taxpayer within the county, on or off the Reservation, in order to satisfy the taxes due.

(2) If this levy against the personal property is not sufficient to satisfy the tax lien, the county or other political subdivision may certify the deficiency to the State and the State may levy against other taxable property of the taxpayer in the State and remit any proceeds to the county or appropriate taxing authority which is owed the tax.

(3) If the county or other political subdivision cannot satisfy its lien, it may require the Tribe to cease allowing the taxpayer to do business on the Reservation.

(4) If the taxpayer is in bankruptcy, the bankruptcy statutes shall apply to this section.

(5) The State or any political subdivision may not seize real property located on the Reservation.

(h) VEHICLE LICENSE FEES.—The Tribe and its Members shall be subject to all license and registration fees and requirements, all periodic inspection fees and requirements, and all fuel taxes imposed by Federal, State, and local governments on motor vehicles, boats, and airplanes, and other means of conveyance.

(i) SALES AND USE TAXES.—(1) The Tribe, its Members, and the Tribal Trust Funds shall be liable for the payment of all State and local sales and use taxes to the same extent as any other person or entity in the State, except as provided in this section.

(2) Purchases made by the Tribe for tribal government functions during the period of 99 years from the effective date of this Act shall be exempt from State and local sales and use taxes.

(3) Catawba pottery and artifacts made by Members and sold on or off the Reservation by the Tribe or Members shall be exempt from State and local sales and use tax.

(4)(A) During the period of 99 years from the effective date of this Act, the sale on the Reservation of all other items, whether made on or off the Reservation, shall be exempt from State and local sales and use taxes, but shall be subject to a special tribal sales tax levied by the Tribe equal to the State and any local sales tax that would be levied in the jurisdiction encompassing the Reservation but for this exemption.

(B) The South Carolina sales and use tax laws, regulations, and rulings shall apply to the special tribal sales tax, and the special tribal sales tax must be administered and collected by the South Carolina Tax Commission in accordance with the Settlement Agreement.

(C) In accordance with the Settlement Agreement, the South Carolina Tax Commission will separately account for the special tribal sales tax, and the State Treasurer will remit the special tribal sales tax revenues periodically to the Tribe at no cost to the Tribe.

(D) The tribal sales tax shall not apply to retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are $100 or less. In such case, the State sales tax shall apply.

(E) The Tribe shall impose a tribal use tax on the storage, use, or other consumption on the Reservation of tangible personal property purchased at retail outside the State when the vendor does not collect the tax. However, any use taxes which are collected by a vendor which is not located in the State will be subject to State use taxes and the use tax shall be remitted to the State and not the Tribe. Use taxes not collected by the vendor and remitted to the State shall be subject to the Tribal use tax and shall be collected directly by the Tribe.

(j) PAYMENTS IN LIEU OF TAXES.—The Tribe shall pay a fee in lieu of school taxes. That fee shall be determined by the county or other appropriate taxing authority in the same manner and shall be the same amount that is paid by students from outside the county entering schools in the county. Fees payable by the Tribe shall be reduced by any funds received under the Act of September 30, 1950 (Public Law 874, 81st Congress; 20 U.S.C. 236 et seq.; commonly referred to as the "Impact Aid Act") pursuant to section 4(g) of this Act or any other Federal funds designed to compensate school districts for loss of revenue due to the non-taxability of Indian property. Any fee in lieu of school taxes paid on behalf of a child under this section shall be excluded from Federal and State income of the child or his family for Federal and State income tax purposes.

(k) ESTATE TAXES.—Members shall be liable for payment for all estate and inheritance taxes, except, however, that the undistributed share of any member in the Catawba Per Capita Payment Trust Fund shall be exempt from Federal and State estate and inheritance taxes.

(l) ELIGIBILITY FOR CONSIDERATION TO BECOME AN ENTERPRISE ZONE OR GENERAL PURPOSE FOREIGN TRADE ZONE.—Notwithstanding the provisions of any other law or regulation, the Tribe shall be eligible to become, sponsor and/or operate (1) an "enterprise zone" pursuant to 42 U.S.C. 11501–11505 or any other applicable Federal (or State) laws or regulations; or (2) a "foreign-trade zone" or "subzone" pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u) and the regulations thereunder, to the same extent as other federally recognized Indian tribes.

SEC. 19. GENERAL PROVISIONS.

(a) GENERAL APPLICABILITY OF STATE LAW.—The Tribe, its Members, and any lands, natural resources, or other property owned by the Tribe or its Members (including any land or natural resources or other property held in trust by the United States or by any other person or entity for the Tribe) shall be subject to the civil, criminal, and regulatory jurisdiction of the State, its agencies and political subdivisions other than municipalities, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person, citizen or land in the State except as otherwise expressly provided in this Act and by the State implementing legislation.

(b) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—The provisions of any Federal law enacted after the date of enactment of this Act shall not apply in the State if such provision would materially affect or preempt the application of the laws of the State, including application of the laws of the State

applicable to lands owned by or held in trust for Indians, or Indian Nations, tribes or bands of Indians. However, such Federal law shall apply within the State if the State grants its approval by a law or joint resolution enacted by the General Assembly of South Carolina and signed by the Governor.

(c) SEVERABILITY.—If any of the provisions of sections 4(a), 5 or 6 of this Act are held invalid by a court, then all of this Act is invalid. Should any other section of this Act be held invalid by a court, the remaining sections of this Act shall remain in full force and effect.

(d) INTERPRETATION CONSISTENT WITH SETTLEMENT AGREEMENT.—Wherever possible, this Act shall be construed in a manner consistent with the Settlement Agreement. In the event of a conflict between the provisions of this Act and the Settlement Agreement, the terms of this Act shall govern. The Settlement Agreement shall be maintained on file and available for public inspection at the Department of the Interior.

SEC. 20. EFFECTIVE DATE.

The provisions of this Act shall become effective upon the transfer of the Existing Reservation to the Secretary.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor, with Senator HOLLINGS, of legislation to provide for a settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina. This legislation is identical to H.R. 2399 which was introduced by Congressman BUTLER DERRICK on June 10, 1993.

Mr. President, in 1980 the Catawba Indians brought suit against 76 defendants alleging that a treaty made with the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State, and the Catawbas seek to recover the land. The Catawbas moved to have the named defendants certified as a class, but the district court denied their motion for class action certification. The Catawbas have, therefore, announced that they will sue thousands of individual landowners in York, Lancaster, and Chester Counties, in South Carolina.

After years of negotiation, and 12 years in court, a settlement agreement was concluded early this year. On February 20, 1993, the Catawba Indian Tribe of South Carolina met and overwhelmingly approved the settlement agreement, contingent upon its enactment in law.

The settlement agreement calls for payments in the amount of $50 million to the Catawbas over a 5-year period. The Federal Government would contribute $32 million; State, local, and private sector parties would pay $18 million. These payments will be placed in trust funds held by the Secretary of Interior. Existing law suits will be dismissed with prejudice and the Catawbas' claim will be ended. The settlement agreement also calls for Federal recognition of the Catawba Indian Tribe, qualifying the tribe for Federal Indian programs. Land for expansion of the existing reservation will be made available for acquisition and tribal self-government will be granted. The settlement agreement also provides terms regarding taxation, limited Indian gaming, and tribal membership.

Mr. President, final ratification of the settlement agreement requires enacting legislation by both the State of South Carolina and the U.S. Government. I am pleased to report that the State of South Carolina has enacted the Catawba Indian Claims Settlement Act, which will implement those terms of the settlement agreement within the jurisdiction of the State, and provides for the State's portion of the settlement claim.

The legislation introduced today will complete the ratification of the settlement agreement. This bill restores the trust relationship between the United States and Catawbas, repealing the 1959 Termination Act. It authorizes the Federal share of the settlement funds and establishes the trust funds. It ratifies prior land transfers and extinguishes future claims by the tribe. The bill addresses tribal membership; tribal government; clarifies criminal and civil jurisdiction of the tribal court; provides authority for expanding the boundaries of the reservation; and implements terms of the settlement agreement related to Indian gaming and taxation.

Mr. President, we are trying to prevent the disruption which would surely result if these thousands of lawsuits were commenced. Even though the vast majority of landowners would have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgment. All of this would be costly to the landowners and to our judicial system. While the suits were pending, it would be difficult to buy or sell land and virtually impossible to obtain title insurance.

Mr. President, this bill addresses an urgent matter in my State. Time is short, as the statute of limitations expires on October 1, 1993. Enactment of this bill must occur prior to that date to avoid litigation. This bill is strongly supported by representatives of the State of South Carolina and the Catawba Indians. I urge my colleagues to support this measure.

By Mr. DURENBERGER:

S. 1158. A bill to authorize the National Institute of Corrections to make grants to States to carry out family unity demonstration projects, and for other purposes; to the Committee on the Judiciary.

FAMILY UNITY DEMONSTRATION PROJECT ACT.

• Mr. DURENBERGER. Mr. President, I rise today to introduce the Family Unity Demonstration Project Act. This bill would authorize six demonstration projects—five at the State level and one at the Federal level—that would allow incarcerated mothers to serve their sentences in supervised community programs with their children.

In an ideal society, an innocent victim should never have to suffer because of someone else's mistake. This is a matter of simple justice.

Yet, in our society, hundreds of thousands of children suffer the pain of separation and unstable living conditions because the criminal justice system is punishing their parents for the parent's mistake.

I believe that it is sound policy to require offenders to pay for their mistakes. But it is terrible policy to require the innocent children of nonviolent offenders to become the indirect victims of crime.

Students have shown that children who are separated from an incarcerated parent suffer severe psychological trauma. These children have a high risk of developing social and emotional problems, of dropping out of school, and of becoming juvenile delinquents.

Some of these children blame themselves for the loss of contact with their parent. Many of these children are shuffled from one foster care situation to another, and never experience a stable home life. All of these children experience a profound sense of loss.

At the same time, the female population in our prisons is growing, partly because of mandatory sentencing for first-time drug offenses. Many of these women have sole custody of their children. Some are pregnant when they enter the prison system.

Our prisons are already overcrowded. More and more, correction officials are looking for alternatives to traditional incarceration for nonviolent offenders.

My home State of Minnesota has been in the forefront of developing community-based programs for offenders who are not a threat to the community. In addition to being a more cost-effective alternative to incarceration, these supervised programs produce results—the participants are much less likely to repeat their crimes.

Under the bill I am introducing today, community correction programs would be available to nonviolent offenders only, who have sole custody of children under the age of six.

To qualify, these programs must provide the children with pediatric care and an environment that is supervised by child development specialists. The offender will participate in parenting classes, substance abuse treatment, support groups and individual counseling, and educational and vocational training.

This legislation is a step in the right direction for many reasons. First, these demonstration projects will minimize the trauma to children. The programs will place children in a stable, caring, healthy environment.

This bill will promote family stability. Mothers will be able to bond with their children. And moms will be more

likely to emerge from the program as better parents and productive members of society.

This bill is also fiscally responsible. Through these community-based alternatives, we will save the social costs of foster care, incarceration, and the relentless cycle of crime.

Support for this legislation should cut across party, ideological, and geographic lines. Representative CRAIG WASHINGTON, a Democrat from Texas, has introduced an identical bill on the House side.

The Judiciary Committee will be holding a hearing entitled "Women in Prison" on Tuesday, June 29. The legislation I am introducing today will be a subject at that hearing. I hope that this hearing will attract the attention of even my colleagues who—like me—are not members of the committee. We should all take the time to educate ourselves about the problems that are particular to women in the prison system.

Mr. President, I encourage my colleagues to support the Family Unity Demonstration Project Act as sound, compassionate, and responsible policy.•

By Mr. MURKOWSKI (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. BINGAMAN, Mr. BROWN, Mr. BUMPERS, Mr. COCHRAN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mrs. FEINSTEIN, Mr. GORTON, Mr. HATCH, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KOHL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LEVIN, Mr. PELL, Mr. PRESSLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. COHEN, Mr. CRAIG, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. METZENBAUM, Mr. HEFLIN, Mr. ROTH and Mr. WARNER):

S. 1159. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

WOMEN IN THE ARMED FORCES COMMEMORATIVE COIN ACT

• Mr. MURKOWSKI. Mr. President, as ranking Republican Member of the Committee on Veterans' Affairs, I am pleased to be joined by 40 Senators in introducing legislation which would authorize the Secretary of the Treasury to mint a coin commemorating the women who have served in the Armed Forces of the United States. These brave and patriotic American women would be twice served by enactment of this legislation. First, the coins themselves would become thousands of tangible tributes to their service. Second, the sale of the coins would provide the Women in Military Service Memorial Foundation, a private organization authorized by Congress in 1986 to create the Women In Military Service Memorial, with the additional funds necessary to build a permanent Memorial in our Nation's Capital. By enacting legislation to help raise funds for the creation of the memorial, this body has the opportunity to honor, at no cost to the taxpayers, the more than 1.8 million women who have served, or are now serving, in the Armed Forces beginning with the American Revolution.

Under the leadership of retired Brig. Gen. Wilma Vaught, the organization has worked at the State and local levels to encourage contributions for the memorial. I am particularly pleased that the Alaskan Legislature appropriated $15,000 towards this worthy project. Last fall the Women in Military Service Memorial Foundation was granted a 2-year extension to complete design specifications and to raise additional funds for the memorial.

A site has now been selected and a design team has been awarded a contract to build a beautiful memorial with views of Arlington National Cemetery and the monuments of Washington. To make this monument a reality, we need to enact this legislation this session.

Mr. President, the women who served this country deserve no less than a national memorial recognizing their contributions to the Armed Forces. Their military service represents only one side of the equation of commitment defining the relationship between our Nation and her veterans. Completion of the memorial will be a step in balancing that equation by acknowledging our national indebtedness to those American women. The memorial will be another step in fulfilling the reciprocal obligation of our Nation to those who wear our military uniform, and to the women who served, the memorial will at last document the role women have played in our country's military history.

I urge my colleagues to support this important measure.•

By Mr. HATFIELD:

S. 1160. A bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes; to the Committee on Labor and Human Resources.

RURAL HEALTH INNOVATION DEMONSTRATION ACT OF 1993

• Mr. HATFIELD. Mr. President, during the last 6 months, Americans have heard a lot about the need to reform our health care system. Health care costs are soaring out of control—far outpacing the rate of inflation—and nearly 37 million Americans are without health care insurance. Solutions for reform are complex and will go through much debate and consensus building before being implemented.

There is no question that our health care system needs to be reformed. Nowhere is this need more urgent than in our rural communities where the number of rural practitioners is decreasing and hospitals are struggling to keep their doors open. Two years ago, I introduced legislation to help rural providers address the challenges they face in making health care services available in their communities. I was pleased when this legislation was incorporated into the comprehensive reform package put forth by the Senate Republican health care task force last session.

Today I am reintroducing the Rural Health Innovation Demonstration Act because I feel, given the current direction of the health care reform debate, that it approves an essential transition into comprehensive health care reform. Now, more than ever, health providers in rural communities are joining with their urban counterparts to create networks to assure that health care is accessible in rural areas. There are a number of obstacles, however, that create a disincentive for providers to participate in these efforts. I believe that the legislation that I am introducing today will remove these obstacles and help rural communities position themselves for comprehensive health care reform.

Mr. President, the Rural Health Innovation Demonstration Act will help our rural communities in the following ways. First, this legislation provides grants to allow rural and urban providers to develop rural health extension networks to facilitate the delivery of health care in rural communities. One addition that I have made to the bill will allow existing area health education center programs to apply for these grants. Allowing existing networks to compete for these grants will prevent needless duplication and assure that successful programs will have the ability to expand their capabilities. The goal of the rural health extension networks grant is to facilitate resource sharing within the network by providing education and training for health care providers in rural areas, creating linkages between rural and urban providers through the use of telecommunications and other consultative projects, and assisting rural providers in developing cooperative approaches to health care delivery.

Second, my bill provides grants for the creation of Rural Managed Care Cooperatives which will enhance the economic viability of health care providers in rural areas. The idea of health cooperatives in rural areas is not new. In 1929, the first Health Maintenance Organization in the United States was developed in rural Elk City, OK by the Farmers' Cooperative. Since 1929, there

have been several attempts to create rural health cooperatives, however they have suffered because there was not sufficient startup support. My bill provides matching funds for startup support of rural health cooperatives.

These cooperatives will be made up of health providers of all types including, but not limited to, hospitals, physicians, rural health clinics, nurse practitioners, physician assistants, and public health departments. By establishing an effective case management and reimbursement system designed to support the financial needs of rural hospitals and health care systems, cooperatives will provide an effective framework for negotiating contracts with payers and assuring a defined level of quality. The cooperatives will also help rural practitioners with a portion of their payments on malpractice premiums.

Third, the bill allows the Secretary of Health and Human Services to award competitive grants to develop and implement mental health outreach programs in rural areas. The bill emphasizes the needs of the elderly and children in rural areas. Grant recipients are encouraged to form relationships with rural managed care cooperatives to enhance the delivery of these services.

Finally, my bill increases the authorization level for the Area Health Education Center Program [AHEC] and provides stipend grants to health care providers and trainees in rural communities as an incentive to provide health care services in those areas. While the stipends envisioned in this legislation will not completely relieve the financial burden young providers face, especially physicians, it is my hope that they will provide enough of an incentive to attract and retain health care providers in rural areas. The increased authorization for the AHEC program will provide the assistance needed to achieve AHEC's mission which is to improve the supply and distribution of health care professionals, with emphasis on primary care, through community-academic educational partnerships to increase access to quality health care.

It has been 20 years since the AHEC program was enacted and we now have a network of 48 AHEC programs in 38 States. In my own State of Oregon, we have an excellent AHEC program with three centers now operating to meet the challenges of both rural and urban areas. State studies have shown that AHEC's have an excellent record in addressing the primary health care profession needs of underserved areas. In fact, since AHEC's inception more than 1.5 million students, residents and preceptors have been trained in medicine, allied health, dentistry, nursing, and pharmacy.

It should be noted that my bill contains one major change that was not included in last session's bill. Due to the concerns about possible antitrust problems that might arise in the formation of the Rural Health Extension Networks and the Rural Managed Care Cooperatives, I have added language which would protect providers who participate in these entities from antitrust law. This exemption from antitrust law should facilitate the development of networks and cooperatives in rural areas.

Mr. President, our rural communities are facing a crisis in health care delivery. In Oregon, since 1982, we have closed one rural hospital a year and last year we closed two. Nationwide, 252 rural community hospitals closed between 1980 and 1989—166 of these closures occurred during the last 4 years of the decade. These hospitals simply cannot compete with their urban counterparts. I believe my legislation will give rural health care providers the tools to build rural health care delivery systems which meet the health needs of their communities. This is the first step in developing an infrastructure of providers who will support and sustain comprehensive health care reform and provide health care access for all Americans.

I'd like to take a moment to thank the National Rural Health Care Association, the Oregon Office of Rural Health, the Oregon Association of Hospitals, the Oregon Medical Association, the Oregon Nurses Association and the Oregon AHEC Program office for their support in developing this innovative legislation. I urge my colleagues to take a careful look at this bill and consider it as a transition into comprehensive health care reform that can help our rural communities now.

Mr. President, I ask unanimous consent that the text of the bill and letters of support from the above organizations be printed in the RECORD immediately following my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Innovation Demonstration Act of 1993".

SEC. 2. RURAL HEALTH EXTENSION NETWORKS.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1709. RURAL HEALTH EXTENSION NETWORKS.

"(a) GRANTS.—The Secretary, acting through the Health Resources and Services Administration, may award competitive grants to eligible entities to enable such entities to facilitate the development of networks among rural and urban health care providers to preserve and share health care resources and enhance the quality and availability of health care in rural areas. Such networks may be statewide or regionalized in focus.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a) an entity shall—

"(1)(A) be a rural health extension network that meets the requirements of subsection (c); or

"(B) be an Area Health Education Center Program;

"(2) prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require; and

"(3) meets such other requirements as the Secretary determines appropriate.

"(c) NETWORKS.—For purposes of subsection (b)(1), a rural health extension network shall be an association or consortium of three or more rural health care providers, and may include one or more urban health care provider, for the purposes of applying for a grant under this section and using amounts received under such grant to provide the services described in subsection (d):

"(d) SERVICES.—

"(1) IN GENERAL.—An entity that receives a grant under subsection (a) shall use amounts received under such grant to—

"(A) provide education and community decisionmaking support for health care providers in the rural areas served by the network;

"(B) utilize existing health care provider education programs, including but not limited to, the program for area health education centers under section 781, to provide educational services to health care providers and trainees including, but not limited to, physicians, nurses and nursing students in the areas served by the network;

"(C) make appropriately trained facilitators available to health care providers located in the areas served by the network to assist such providers in developing cooperative approaches to health care in such area;

"(D) facilitate linkage building through the organization of discussion and planning groups and the dissemination of information concerning the health care resources where available, within the area served by the network;

"(E) support telecommunications and consultative projects to link rural hospitals and other health care providers, and urban or tertiary hospitals in the areas served by the network; or

"(F) carry out any other activity determined appropriate by the Secretary.

"(2) EDUCATION.—In carrying out activities under paragraph (1)(B), an entity shall support the development of an information and resource sharing system, including elements targeted towards high risk populations and focusing on health promotion, to facilitate the ability of rural health care providers to have access to needed health care information. Such activities may include the provision of training to enable individuals to serve as coordinators of health education programs in rural areas.

"(3) COLLECTION AND DISSEMINATION OF DATA.—The chief executive officer of a State shall designate a State agency that shall be responsible for collecting and regularly disseminating information concerning the activities of the rural health extension networks in that State.

"(e) MATCHING REQUIREMENT.—An entity that receives a grant under subsection (a) shall make available (directly or through donations from public or private entities), non-Federal contributions towards the costs of the operations of the network in an amount equal to the amount of the grant.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for each of the fiscal years 1994 through 1997.

"(g) DEFINITION.—As used in this section and section 1710, the term 'rural health care providers' means health care professionals and hospitals located in rural areas. The Secretary shall ensure that for purposes of this definition, rural areas shall include any area that meets any applicable Federal or State definition of rural area.

"(h) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for entities to develop and operate networks in accordance with this section.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws' means—

"(A) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, commonly known as the 'Sherman Act' (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

"(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

"(C) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, commonly known as the 'Clayton Act' (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53);

"(D) the Act of June 19, 1936, commonly known as the Robinson-Patman Antidiscrimination Act (15 U.S.C. 13 et seq.); and

"(E) any State antitrust laws that would prohibit the activities described in paragraph (1).".

SEC. 3. RURAL MANAGED CARE COOPERATIVES.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) as amended by section 2 is further amended by adding at the end thereof the following new section:

"SEC. 1710. RURAL MANAGED CARE COOPERATIVES.

"(a) GRANTS.—The Secretary, acting through the Health Resources and Services Administration, may award competitive grants to eligible entities to enable such entities to develop and administer cooperatives in rural areas that will establish an effective case management and reimbursement system designed to support the economic viability of essential public or private health services, facilities, health care systems and health care resources in such rural areas.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a) an entity shall—

"(1) prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require, including a description of the cooperative that the entity intends to develop and operate using grant funds; and

"(2) meet such other requirements as the Secretary determines appropriate.

"(c) COOPERATIVES.—

"(1) IN GENERAL.—Amounts provided under a grant awarded under subsection (a) shall be used to establish and operate a cooperative made up of all types of health care providers, hospitals, primary access hospitals, other alternate rural health care facilities, physicians, rural health clinics, rural nurse practitioners and physician assistant practitioners, public health departments and others located in, but not restricted to, the rural areas to be served by the cooperative.

"(2) BOARD OF DIRECTORS.—A cooperative established under paragraph (1) shall be administered by a board of directors elected by the members of the cooperative, a majority of whom shall represent rural providers from the local community and include representatives from the local community. Such members shall serve at the pleasure of such members.

"(3) EXECUTIVE DIRECTOR.—The members of a cooperative established under paragraph (1) shall elect an executive director who shall serve as the chief operating officer of the cooperative. The executive director shall be responsible for conducting the day the day operation of the cooperative including—

"(A) maintaining an accounting system for the cooperative;

"(B) maintaining the business records of the cooperative;

"(C) negotiating contracts with provider members of the cooperative; and

"(D) coordinating the membership and programs of the cooperative.

"(4) REIMBURSEMENTS.—

"(A) NEGOTIATIONS.—A cooperative established under paragraph (1) shall facilitate negotiations among member health care providers and third party payors concerning the rates at which such providers will be reimbursed for services provided to individuals for which such payors may be liable.

"(B) AGREEMENTS.—Agreements reached under subparagraph (A) shall be binding on the members of the cooperative.

"(C) EMPLOYERS.—Employer entities may become members of a cooperative established under paragraph (a) in order to provide, through a member third party payor, health insurance coverage for its employees. Deductibles shall only be charged to employees covered under such insurance if such employees receive health care services from a provider that is not a member of the cooperative if similar services would have been available from a member provider.

"(D) MALPRACTICE INSURANCE.—A cooperative established under subsection (a) shall be responsible for identifying and implementing an affordable malpractice insurance program that shall include a requirement that such cooperative assume responsibility for the payment of a portion of the malpractice insurance premium of providers members.

"(5) MANAGED CARE AND PRACTICE STANDARDS.—A cooperative established under paragraph (1) shall establish joint case management and patient care practice standards programs that health care providers that are members of such cooperative must meet to be eligible to participate in agreements entered into under paragraph (4). Such standards shall be developed by such provider members and shall be subject to the approval of a majority of the board of directors. Such programs shall include cost and quality of care guidelines including a requirement that such providers make available preadmission screening, selective case management services, joint patient care practice standards development and compliance and joint utilization review.

"(6) CONFIDENTIALITY.—

"(A) IN GENERAL.—Patients records, records of peer review, utilization review, and quality assurance proceedings conducted by the cooperative should be considered confidential and protected from release outside of the cooperative. The provider members of the cooperative shall be indemnified by the cooperative for the good faith participation by such members in such the required activities.

"(B) QUALITY DATA.—Notwithstanding any other provision of law, quality data obtained by a hospital or other member of a cooperative in the normal course of the operations of the hospital or member shall be immune from discovery regardless of whether such data is used for purposes other than peer review or is disclosed to other members of the cooperative involved.

"(d) LINKAGES.—A cooperative shall create linkages among member health care providers, employers, and payors for the joint consultation and formulation of the types, rates, costs, and quality of health care provided in rural areas served by the cooperative.

"(e) MATCHING REQUIREMENT.—An entity that receives a grant under subsection (a) shall make available (directly or through donations from public or private entities), non-Federal contributions towards the costs of the operations of the network in an amount equal to the amount of the grant.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for each of the fiscal years 1994 through 1997.

"(g) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for entities to develop and operate cooperatives in accordance with this section.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws' means—

"(A) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, commonly known as the 'Sherman Act' (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

"(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

"(C) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, commonly known as the 'Clayton Act' (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

"(D) the Act of June 19, 1936, commonly known as the Robinson-Patman Antidiscrimination Act (15 U.S.C. 13 et seq.); and

"(E) any State antitrust laws that would prohibit the activities described in paragraph (1).".

SEC. 4. RURAL MENTAL HEALTH OUTREACH GRANTS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290cc-11 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 520C. RURAL MENTAL HEALTH OUTREACH GRANTS.

"(a) IN GENERAL.—The Secretary may award competitive grants to eligible entities to enable such entities to develop and implement a plan for mental health outreach programs in rural areas.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a) an entity shall—

"(1) prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require, including a description of the activities that the entity intends to undertake using grant funds; and

"(2) meet such other requirements as the Secretary determines appropriate.

"(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applications that place emphasis on mental health services for the elderly or children. Priority shall also be given to applications that involve relationships between the applicant and rural managed care cooperatives.

"(d) MATCHING REQUIREMENT.—An entity that receives a grant under subsection (a) shall make available (directly or through donations from public or private entities), non-Federal contributions towards the costs of the operations of the network in an amount equal to the amount of the grant.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1997.".

SEC. 5. AREA HEALTH EDUCATION CENTERS.

(a) STIPENDS FOR PERSONNEL.—Section 746(a) of the Public Health Service Act (42 U.S.C. 293j(a)) is amended by adding at the end thereof the following new paragraph:

"(4) STIPENDS.—

"(A) The Secretary make award grants under this section to rural communities to enable such communities to provide stipends to physicians, nurses, nurse practitioners, physician assistants, and other health professional trainees to encourage such individuals to provide health care services in such rural communities. In addition, the Secretary may award grants under this section to rural communities to enable such communities to provide stipends to physicians, nurses, nurse practitioners, physician assistants, and other health professionals that are practicing in rural areas to retain such individuals in such areas.

"(B) A community that receives a grant under subparagraph (A) shall make available (directly or through donations from public or private entities), non-Federal contributions towards the costs of the operations of the network in an amount equal to the amount of the grant.".

(b) REAUTHORIZATION.—Section 746(i)(1)(A) of such Act (42 U.S.C. 293j(i)(1)(A)) is amended by striking out "$25,000,000" and all that follows through "1995" and inserting in lieu thereof "$25,000,000 for fiscal year 1993, and $42,000,000 for each of the fiscal years 1994 through 1997".

NATIONAL RURAL HEALTH ASSOCIATION,
Washington, DC, June 22, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: The National Rural Health Association wishes to thank you for reintroducing "Rural Health Innovation Demonstration Act." We greatly appreciate the opportunity to review and comment on the bill, and offer our services to you in the future.

The draft innovations act contains a number of proposals which are very consistent with NRHA policy. Certainly the development of networks is critical to rural providers in the environment of AHPs and managed care. In order to become as sophisticated as community-based organizations must be to meet these challenges, assistance through education and community decision making will be critical. Network development assistance through education is invaluable. This we strongly support.

The enhancements you have made to the original innovation demonstration act are highly appropriate. AHECs should be considered as possible network providers and the antitrust references will be necessary as we go through network development. Any assistance that can be given to rural entities for the development of managed care in the form of free-standing sites or cooperatives is appreciated. Rural providers have to overcome the issues of risk pooling, critical mass of patients and the costs incurred in management of managed care organizations in order to become viable. Rural Health Innovation Demonstration should give the assistance to build rural managed care cooperatives and create a rural track record in managed care.

The support for telecommunications is also invaluable to rural providers. NRHA supports the equitable development, deployment and coordination of communication technologies for rural areas to improve health care for rural citizens, reduce health professional isolation, extend professional education, and provide the infrastructure for community-based, regional and international networks.

Once again, Senator, thank you for your support, the innovation demonstration bill, and the opportunity to participate in its review. If we may be of further assistance, do not hesitate to call.

Sincerely,

KIM E. SIBILSKY,
Deputy Director, Policy and Programs.

OREGON HEALTH SCIENCES UNIVERSITY,
Portland, OR, June 23, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: Speaking on behalf of the Office of Rural Health, we are very enthusiastic about the introduction of your bill to allow the formation of managed care cooperatives in rural areas.

As the health care environment prepares itself for reform, vulnerable rural areas have no protection and few resources to contend with rapid change. Few of us could have foreseen the need for rural providers to compete effectively with urban health systems just a few years ago. Now, however, we are experiencing a much more "global" health care environment, but without a level playing field.

Your bill would allow rural communities to seek legitimate and logical affiliations, based on actual regional needs, not just expediency. We have witnessed a flurry of novel partnerships in response to the Oregon Health Plan in recent months. Many rural providers formed associations with larger urban systems out of desperation because they did not want to be excluded. Fortunately, OHSU and ODS were able to offer them an alternative in the form of CareOregon, but we remain committed to the concept of regional health care cooperatives, administered by those who are living and working in rural Oregon.

As health care reform grows logarithmically around the country, this bill would provide a "safe haven" for rural communities and providers and give them the opportunity to undertake some genuine planning. We must work hard to preserve the gains that have been made in rural health care. It is a bit like climbing a "down" escalator—you have to keep running just to keep up!

Thank you again for your achievements in rural health and your continuing commitment to the issues we all care so much about. If there is any way that we can be of help, please let us know.

Yours very truly,

KAREN WHITAKER,
Director.

OREGON MEDICAL ASSOCIATION,
Portland, OR, June 23, 1993.

MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: The Oregon Medical association supports your latest effort to assist rural health care through the introduction of the rural Health Innovation Demonstration Act of 1993.

We appreciated the opportunity to provide suggestions and recommendations to your staff during the drafting of this legislation. We believe that with your leadership in the Senate and the overwhelming need to assist rural communities in the maintenance and improvement of rural health care that this legislation will be favorably acted upon by Congress.

If the OMA can be of further assistance, please let me know.

Sincerely,

DONALD J. SCHROEDER, M.D.,
President.

OREGON ASSOCIATION OF HOSPITALS,
Lake Oswego, OR, June 24, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: Oregon Association of Hospitals strongly endorses the Rural Health Innovation Demonstration Act of 1993. This legislation will help small, rural hospitals develop networks and cooperatives to support the rural health care system as reform takes place. Oregon Association of Hospitals believes it is particularly important to help preserve access and needed health care services in rural areas during these changing times.

Several small, rural hospitals in Oregon are exploring the possibility of developing networks and need support to get started. They plan to submit demonstration project applications if the bill passes.

Oregon Association of Hospitals and the Small, Rural Hospital Committee of Oregon Association of Hospitals appreciates this effort on behalf of small, rural hospitals.

Sincerely,

BARBARA LUM,
Vice President.•

By Mr. BAUCUS (for himself, Ms. MOSELEY-BRAUN, and Mr. CAMPBELL):

S. 1161. A bill to establish a program to ensure nondiscriminatory compliance with environmental, health, and safety laws and to ensure equal protection of the public health; to the Committee on Environment and Public Works.

ENVIRONMENTAL JUSTICE ACT OF 1993

• Mr. BAUCUS. Mr. President, I rise today to introduce the Environmental Justice Act of 1993, along with my colleagues, Senator CAROL MOSELEY-BRAUN and Senator BEN CAMPBELL.

Mr. President, in America, the poor live downstream and downwind. The Council on Environmental Quality first recognized this 20 years ago. A few facts will show that since then, we've done little about it.

For one thing, environmental penalties are as much as five times higher in wealthy communities than minority communities. For another, three of our country's five largest landfills are in poor communities. These communities also have more uncontrolled toxic waste sites than anybody else. And about three of every five African-Americans or Hispanics live near a toxic dump. In practice, then, the NIMBY slogan, not in my backyard, often means put it in their backyard.

The bill I'm introducing today, the Environmental Justice Act, will help eliminate the problem. As we clean up our environment, we must clean it up

for everyone, regardless of how rich they are, where they live, or what they look like.

The act will do two things. First, it will help us set priorities. It will make sure we base our environmental cleanups on where the pollution is, not where the money is.

Our health and environmental agencies pile up libraries full of information on toxics in the environment. We know a great deal about pollution—not only how much, but precisely where the discharges and emissions occur. We know where the incinerators and the dumps and the landfills are located.

We also have the best census data of any country in the world. We spend hundreds of millions of dollars collecting census data. We break it down block by block.

But we don't match population data with data on health and the environment. We don't know precisely which neighborhoods are most affected by toxic pollution.

The Environmental Justice Act will require the EPA to find the facts: which neighborhoods have the most exposure to toxic pollutants—the chemicals which are the main causes of learning disabilities, absenteeism, genetic malformation, increased morbidity and mortality? And it will direct the Environmental Protection Agency to identify the 100 most toxic counties in the country.

Second, it will limit new toxic releases until we correct problems in the areas where the level of exposure is highest. Just as the Clean Air Act allows new pollution in dirty air regions only if it is offset by reduction of existing pollution, and the Clean Water Act prevents the deterioration of water below water quality standards by new sources, the Environmental Justice Act will block new toxic emissions in priority areas.

As I've drafted this bill, several people have asked me why a Montanan, a Senator from a rural State, takes such an interest in a problem we associate more with inner-city neighborhoods than with the West. I have two answers to that.

First of all, this is a national problem, not an East Coast or big city problem. When the results are in, I think we will find that the most toxic environments are all over the country—wherever our poorest and least powerful citizens live. I don't know that—but I'm ready to let the facts dictate where we should target our efforts. For example, it is critical to examine carefully the concerns about Indian reservations.

Second, we're all our brother's keeper in America. Just as I expect people in the cities and suburbs to care about rural America, I expect all of us who come from rural America to care about the cities. This bill is about fairness. It's about making sure the Government serves the people fairly.

The Environmental Justice Act is the product of considerable effort on the part of civil rights organizations, environmental groups, and many others. I sincerely thank them for their help and want to give particular thanks to Rev. Benjamin Chavis, who has worked for years to bring this issue to the attention of Congress. I pledge to work with him and the NAACP, along with other friends in environmental groups and minority communities across the country, to make sure it succeeds.

Mr. President, I ask unanimous consent that the text of the bill along with a summary of the bill appear in the RECORD immediately following my remarks.

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

S. 1161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Environmental Justice Act of 1993".

SEC. 2. FINDINGS.

The Congress that—

(1) Toxic chemicals are being released in significant amounts into the environment. Over 3.5 billion pounds of toxic releases were reported by approximately 19,600 industrial plants in 1990, under the Emergency Planning and Community Right-to-Know Act.

(2) Notwithstanding the benefits of the Emergency Planning and Community Right-to-Know Act, many toxic chemicals posing substantial health threats as a result of releases, are not being reported. The Emergency Planning and Community Right-to-Know Act excludes hundreds of chemicals listed as toxics under various environmental laws including: 16 hazardous air pollutants, and 5 extremely hazardous substances listed in the 1990 Clean Air Act Amendments; 140 chemicals regulated as hazardous waste under the Resource Conservation and Recovery Act because of acute or chronic toxicity; over 200 chemicals identified as known or probable human carcinogens by the EPA and the National Toxicology Program; 69 special review pesticides identified under the Federal Insecticide, Fungicide and Rodenticide Act and hundreds of restricted use pesticides; and 90 reproductive toxins identified by the California Department of Health.

(3) Although environmental and health data of toxic chemical releases are not routinely collected and analyzed by income and race, racial and ethnic minorities and lower income Americans may be disproportionately exposed to toxic chemicals in their residential and workplace environments.

SEC. 3. PURPOSES AND POLICIES.

The purposes of this Act are—

(1) to establish and maintain information which provides an objective basis for assessment of health effects by income and race;

(2) to identify those areas with the largest releases of toxic chemicals to the air, land, water and workplace;

(3) to assess the health effects that may be caused by emissions in those areas of highest environmental impact;

(4) to ensure that groups or individuals residing within High Environmental Impact Areas have the opportunity and the resources to participate in the technical process which will determine the possible existence of adverse health impacts;

(5) to identify those activities in high environmental impact areas found to have significant adverse impacts on human health; and

(6) to incorporate environmental equity considerations into planning and implementation of all Federal environmental programs and statutes.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) The term "environmental high impact area" means any of the 100 countries or appropriate geographic units with the highest total weight of toxic chemicals released during the most recent 5-year period for which data is available, as calculated pursuant to section 4 of this Act.

(3) The term "toxic chemicals" means: (A) all hazardous substances as defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(14); (B) all materials registered pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (by 7 U.S.C. 136 et seq.); (C) all chemicals subject to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986; (D) all contaminants identified in the Safe Drinking Water Act (42 U.S.C. 300g-1); (E) all chemicals listed by the National Toxicology Program as known or probable human carcinogens; and (F) all materials subject to the requirements concerning material safety data sheets for hazardous chemicals under the Occupational Safety and Health Act of 1970 (15 U.S.C. 615 et seq.).

(5) The term "release" shall have the same meaning as used in section 101(22) of the Comprehensive Environmental Response, Compensation and Liability Act of 1990 as amended by the Superfund Amendments and Reauthorization Act of 1986, and shall also include any release which results in exposure to persons within a workplace.

(6) The term "toxic chemical facility" means any facility: (A) subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act of 1986; (B) that generates, treats, stores or disposes of a hazardous waste as defined in section 3001 of the Solid Waste Disposal Act; (C) subject to section 112 or 129 of the Clean Air Act; (D) subject to sections 307 or 311 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); (E) subject to the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.); or (F) subject to the requirements concerning material safety data sheets for hazardous chemicals under the Occupational Safety and Health Act of 1970 (15 U.S.C. 615 et seq.). For the purpose of this Act the term "toxic chemical facility" shall include any Federal facility that releases a toxic chemical.

SEC. 5. IDENTIFICATION OF ENVIRONMENTAL HIGH IMPACT AREAS.

(a) DETERMINATION OF IMPACTED AREAS.—Within 6 months after the date of enactment, the Administrator in consultation with the Agency for Toxic Substances and Disease Registry, the National Institute for Environmental Health Sciences, the National Center for Health Statistics and the Bureau of the Census, shall determine the most appropriate designation of Environmental High Impact Areas, either counties or other appropriate geographic unit.

(b) PUBLICATION OF LIST.—Within 12 months after the date of enactment of this

Act, the Administrator shall publish a list, in rank order, of the total weight of toxic chemicals released in each county or other appropriate geographic unit in the United States during the most recent 5-year period for which data are available. If less than five years of data are available the Administrator shall use available data until further information is reported.

(c) COMPILATION OF LIST.—(1) In compiling the list under subsection (a), the Administrator shall consider and utilize all appropriate and available data compiled pursuant to any environmental regulatory authority and other sources, including available data on the presence of lead-based paint and toxic chemicals from mobile vehicles.

(1) For each county or appropriate geographic unit the Administrator shall calculate and compile in a data base—

(A) the total weight of toxic chemicals released into the ambient environment;

(B) the total weight of toxic chemicals released into each environmental media (air, water, land, workplace);and

(C) the total weight of each toxic chemical released into the ambient environment, and into each environmental media (air, water, land, workplace);

and whenever possible shall adjust the estimates of each of the items in subparagraphs (A) through (C) to account for the toxicity of the toxic chemicals.

(2) Within 6 months after the date of enactment the Administrator shall review the methodology used to compile and summarize information collected under section 313 of the Emergency Planning and Community Right-to-Know Act, and publish for public comment any proposed changes to the methodology necessary to calculate and compile the information required in paragraph (1).

(3) The Administrator shall revise and republish the list described in subsection (c) by the date that is 6 years after the date of initial publication, and not less frequently than every 5 years thereafter, using data compiled during the preceding 5-year period.

(d) ENVIRONMENTAL HIGH IMPACT AREAS.—(1) Within 12 months after the date of enactment, and every 5 years thereafter, the Administrator shall publish a list of the 100 counties or other appropriate geographic unit with the highest total toxic chemical releases based on the list published in subsection (b). Such counties or other appropriate geographic units shall be designated as "Environmental High Impact Areas".

(2)(A) To ensure that facilities with the highest potential for release of toxic chemicals are operating in compliance with all applicable environmental health and safety standards, the Administrator, and the Secretary of Labor, shall conduct compliance inspections of all toxic chemical facilities subject to their jurisdiction in Environmental High Impact Areas within 2 years after the date of enactment of this Act, and not less frequently than every 2 years thereafter.

(B) Notwithstanding the requirements in subparagraph (A), the Administrator or the Secretary of Labor may authorize any state or Indian tribe which has been delegated authority to administer any Federal law regulating a toxic chemical which authorizes the inspection of toxic chemical facilities for compliance with applicable Federal environmental laws, to conduct such inspections in lieu of the Administrator or the Secretary of Labor.

(3) Within 24 months after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Administrator, the Secretary of Labor, the Bureau of Indian Affairs, and the Commissioners of the United States Commission on Civil Rights, shall issue for public comment a report identifying the nature and extent, if any, of acute and chronic impacts on human health in Environmental High Impact Areas from exposure to toxic chemicals. Such impacts shall include incidence of cancer, birth deformities, infant mortality rates, and respiratory diseases. Such report shall include a comparison of the health impact from exposure to toxic chemicals in Environmental High Impact Areas with other counties in the United States. The report shall be coordinated by the Administrator of the Agency for Toxic Substances Disease Registry of the Department of Health and Human Services, and in coordinating the report, the Administrator of the Agency for Toxic Substances and Disease Registry shall seek to—

(A) isolate the impacts of environmental pollution;

(B) segregate the effects of other factors such as health care availability or substance abuse;

(C) rank the relative risks posed by the toxic chemicals present in Environmental High Impact Areas and by the varied sources of toxic chemicals both individually and cumulatively;

(D) take into account the need to remedy the impacts of such toxic chemicals in high population density areas;

(E) evaluate the levels below which release of toxic chemicals, either individually or cumulatively, must be reduced to avoid adverse impacts on human health; and

(F) determine the impacts of maintaining toxic chemical releases at the current levels.

(4) If the report under paragraph (3) identifies significant adverse impacts from exposure to toxic chemicals on human health in Environmental High Impact Areas as a group, the President shall submit to Congress within one year after publication of the report, proposed administrative and legislative changes to remedy and prevent such impacts, including—

(A) the addition of facilities or chemicals to be subject to reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986, or a reduction in threshold quantities of chemicals that trigger reporting requirements under such Act;

(B) the regulation of toxic chemicals not subject to Federal law based on a statutory or administrative exemption; and

(C) the imposition of additional regulatory measures for toxic chemical facilities in an Environmental High Impact Area, such as emissions fees, source reduction requirements, or restrictions on toxic chemical releases.

SEC. 6. REDUCTION OF TOXIC CHEMICALS.

If the report under section 4(d)(3) identifies significant adverse impacts on human health from exposure to toxic chemicals in an Environmental High Impact Area, the Administrator shall promulgate regulations applicable to any Federal permit for construction or modification of a toxic chemical facility in that area. Such regulations shall require a net reduction in the release of any toxic chemical determined to cause such significant adverse impacts on human health in that area.

SEC. 7. TECHNICAL ASSISTANCE GRANTS.

(a) IN GENERAL.—Subject to appropriations, and in accordance with rules promulgated by the Secretary of Health and Human Services in consultation with the Administrator, the Secretary may award a grant to any individual or group of individuals who may be affected by a release or threatened release of a toxic chemical from any toxic chemical facility in an environmental high impact area.

(b) GRANT REQUIREMENTS.—(1) A grant awarded under this section shall—

(A) be designed to facilitate access by representatives of environmental high impact areas to the activities that involve public participation under this Act and any other related law;

(B) be used to obtain technical assistance relating to the inspection and review authorities described in section 4(d)(2) and the study described in section 4(d)(3); and

(C) be in an amount not to exceed $50,000.

(2) Each grant recipient shall be required, as a condition of the grant, to pay a non-Federal share equal to 20 percent of the grant amount. The Administrator may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need to the satisfaction of the Administrator. Not more than one grant may be made with respect to each environmental high impact area for the period of a grant (as determined by the Administrator). At the end of the period, a grant may be renewed if the Administrator determines that the renewal is necessary to facilitate public participation.

(3) Grants under this subsection shall be considered to be grants under section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, and shall be funded in the same manner.

SECTION-BY-SECTION SUMMARY

Section 1 is the short title of the bill, to be cited as the "Environmental Justice Act of 1993."

Section 2 establishes findings that racial and ethnic minorities and lower income Americans may be disproportionately exposed to toxic chemicals in their residential and workplace environments.

Section 3 sets forth six purposes and policies:

To establish and maintain information to objectively assess the health effects by income and race;

To identify those areas with the largest releases of toxic chemicals;

To assess the health effects in those areas of highest environmental impact;

To ensure that the public in those areas have the opportunity and resources to participate in the technical process which will determine the possible existence of adverse health impacts;

To identify those activities in high environmental impact areas found to have a significant adverse health impact; and

To incorporate environmental equity considerations into planning and implementation of all Federal environmental programs and statutes.

Section 4 defines key terms used in the act including "environmental high impact area," "toxic chemicals," and "toxic chemical facility."

Section 5 lays out the process for identifying environmental high impact areas:

Within 12 months after the date of enactment, EPA shall publish a list, in rank order, of the total weight of toxic chemicals released in each county or appropriate geographic unit during the most recent five-year period for which data is available, and shall designate the top 100 areas as "Environmental High Impact Areas." The EPA shall use all appropriate and available data

compiled pursuant to any environmental regulatory authority and other sources. The EPA must update the list every five years.

Within 24 months after the date of enactment, the EPA and the Department of Labor shall conduct compliance inspections of all toxic chemical facilities subject to their jurisdiction, in Environmental High Impact Areas and every two years thereafter.

In addition, within 24 months after enactment, the Department of Health and Human Services, in consultation with the EPA, the Department of Labor and the Commissioners of the United States Commission on Civil Rights, shall issue a report for public comment that identifies the nature and extent of health impacts in Environmental High Impact Areas.

If the report identifies significant adverse health impacts from exposure to toxic chemicals in an Environmental High Impact Area, the President shall submit to Congress within one year after the publication of the report, proposed administrative and legislative changes to remedy and prevent such impacts.

Section 6 establishes a requirement that any Federal permit for construction or modification of a toxic chemical facility in an Environmental High Impact Area that has been determined to pose significant health impacts, must be offset by reductions in toxic emissions from current sources.

Section 7 authorizes the Department of Health and Human Services in consultation with the EPA to provide technical assistance grants to any individual or group of individuals who may be affected by a toxic chemical release from any toxic chemical facility in an Environmental High Impact Area of up to $50,000.●

● Ms. MOSELEY-BRAUN. Mr. President, most Americans are well aware of the scope and extent of the toxic waste disposal problem in this country. There are daily news stories about communities that are adversely affected by toxic waste contamination of their air, water, or soil.

And most Americans also know that toxic emissions can be harmful to human health. They are justifiably concerned about the long-term health impacts of living in homes in areas with toxic waste programs, or going to work in areas that expose them to this kind of risk.

What is much less known, however, is who is most affected by toxic waste contamination. The news stories tend to focus on the middle-class victims, but the evidence demonstrates conclusively that poor, minority Americans are far more likely to be living or working near toxic waste sites, and are far more likely to be suffering from the consequences of exposure to these hazardous substances. In fact, recent studies demonstrate conclusively that race—not socioeconomic status or regional location—is the single best predictor of where toxic waste sites are located.

The data is alarming. More than 20 years of research reveals a disturbing pattern:

Three out of five African-Americans live in communities with abandoned toxic waste sites.

Three of the five largest commercial hazardous waste landfills, accounting for a full 40 percent of the Nation's estimated landfill capacity, are located in predominantly African-American or Latino communities.

A landmark 1987 report by the United Church of Christ's Commission for Racial Justice provides some of the most compelling data. The commission's study revealed that, nationwide, the proportion of minorities in communities that have a commercial hazardous waste facility is about double that of communities with no such facility.

A perfect example is a community close to where I grew up called Altgeld Gardens. Altgeld Gardens is a south Chicago housing development where 10,000 poor and minority residents live surrounded by not 1, or 2, but 50 abandoned factory dumps. So potent are the discarded mixtures in the dumps that residents say that they are overwhelmed by the smell of garbage, methane gas emissions, sludge, and so many other chemicals they don't like to let their children play outside. What kind of life can a child growing up in that kind of environment have?

Unfortunately, the bad news goes beyond the disproportionate siting of toxic waste facilities in poor minority areas. We also know that minority communities receive disparate and unequal treatment in the enforcement of the laws intended to protect those exposed to environmental danger.

A 1992 report by the National Law Journal found a marked disparity in penalties levied against toxic polluters in minority communities and those in other areas. The report also analyzed every residential toxic waste site in the Superfund Program. It found that in minority communities, the Government takes longer to investigate hazards and redress problems once validation is found. In addition, remedies are often less stringent than recommended by the scientific community.

The bill Senators BAUCUS, CAMPBELL, and I are introducing today, the Environmental Equity Act of 1993, addresses these unfair siting and cleanup practices. It also seeks to ensure compliance by all facilities, particularly those in minority communities, with all environmental, health, and safety laws. More importantly, it will finally assure equal public health protection for the members of severely affected communities by compiling scientific data on adverse health consequences.

Specifically, this bill would establish an EPA program to determine those areas in the country most severely contaminated by toxic wastes. It would require the collection and reporting of the extent of any acute and/or chronic impact on human health in these areas, and establish a grant program to provide information and technical assistance to the affected communities.

Mr. President, this legislation, which is similar to legislation sponsored by the Vice President when he was a Member of this body, will not eliminate unhealthy environments in minority communities, but it is a strong first step. It will begin to ensure that hazardous waste sites in minority communities operate in compliance with all applicable environmental, health, and safety standards. It will help to gather data to fill an important void in our understanding of the health effects of environmental pollutants.

What is most important, however, is that it will tie environmental data that we have already and analyze it in conjunction with public health and census data. We will soon be able to link appropriate health information of residents living in severely affected areas with hazardous waste data by race and socioeconomic status. This information, combined with the grant money available through this legislation, can empower communities, spur action on the Federal, State, and local levels, and help residents of affected communities obtain the help they need to preserve and improve their communities.

It is because of the severity of the situation that I also cosponsored, earlier this year, an amendment to the EPA elevation bill that would create an office of Environmental Justice at EPA. That amendment was important because it provided a needed focus at EPA to address environmental justice issues. This legislation is important because it will provide much-needed relief to affected communities.

I have said it before and repeat it again now—the time has come to make sure environmental protection includes equal protection. I believe this is an essential piece of legislation, not just for minority communities but for all communities.

I urge my colleagues in the Senate to support this important legislation.●

By Mr. BAUCUS (for himself, Mr. LIEBERMAN, and Mr. SIMPSON) (by request):

S. 1162. A bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1994 and 1995, and for other purposes; to the Committee on Environment and Public Works.

NRC AUTHORIZATION ACT

● Mr. BAUCUS. Mr. President, by request of the Nuclear Regulatory Commission [NRC], today I am introducing, along with Senators LIEBERMAN and SIMPSON, the NRC's proposed authorization bill for fiscal years 1994 and 1995 and the NRC's proposed legislative package for the 103d Congress.

The introduction of these bills is the first step in the renewal by the Committee on Environment and Public Works of the authorization process for the NRC.

The Subcommittee on Clean Air and Nuclear Regulation of the Committee on Environment and Public Works will

conduct a hearing on these proposals next week. I look forward to reviewing the testimony received at this hearing on these proposals.

Mr. President, I ask unanimous consent that the NRC's analysis and explanation of its authorization bill and its legislative proposals be included at the appropriate place in the RECORD.

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

U.S. NUCLEAR REGULATORY COMMISSION PROPOSED BILL FOR AUTHORIZATION OF APPROPRIATIONS FISCAL YEARS 1994 AND 1995

SECTION-BY-SECTION ANALYSIS

Section 1

(a) The Nuclear Regulatory Commission is responsible for assuring that the possession, use and disposal of radioactive materials and the construction and operation of reactors and other nuclear facilities are conducted in a manner consistent with public health and safety and the common defense and security, with proper regard for environment quality, and in conformance with antitrust statutes. The Commission's program is comprised of nuclear facilities and material licensing, inspection and enforcement and related regulatory functions, nuclear safety research, rulemaking, and technical and administrative support activities.

The Nuclear Waste Policy Act, as amended, provides for the establishment of a Nuclear Waste Fund to ensure that the costs of carrying out activities relating to the disposal of high-level radioactive waste and spent nuclear fuel will be borne by the generators of such waste and spent fuel and provides that the amounts paid by generators and owners of these materials into the fund is reviewed annually to determine if any adjustment is needed to ensure full cost recovery. The Nuclear Regulatory Commission is required by the Nuclear Waste Policy Act, as amended, to license a repository for the disposal of high-level radioactive waste and spent nuclear fuel and a monitored retrievable storage (MRS) facility. The Commission is assigned specific review responsibilities in the steps leading to submission of the license applications. Thus, the Act establishes NRC's responsibility throughout the repository and MRS siting processes, culminating in the requirement for NRC licensing as a prerequisite to construction and operation of the facilities. The Nuclear Waste Policy Act, as amended, also specifies that expenditures from the Nuclear Waste Fund shall only be used for activities relating to spent fuel and high-level radioactive waste disposal, including identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository or MRS facility constructed under the Act, and administrative cost of the radioactive waste disposal program.

The budget request for the Commission is stated in terms of obligational authority requested to carry out the responsibilities of the Commission.

(b) The Inspector General Act Amendments of 1988 amended the Inspector General Act of 1978, established the Office of the Inspector General within the Nuclear Regulatory Commission effective on April 17, and required the establishment of a separate appropriation account to fund the Office of the Inspector General.

The budget request for the Office of the Inspector General is stated in terms of obligational authority requested to carry out the responsibilities of the Office of the Inspector General.

Section 2

(a) The requested authorization for appropriations under Section 1.(a) is $542,900,000 for fiscal year 1994, and $546,800,000 for fiscal year 1995, and is allocated as follows:

	Amount FY 1994	Amount FY 1995
Reactor safety and safeguards regulations	$163,807,000	$168,005,000
Reactor safety research	99,969,000	98,339,000
Reactor special and independent reviews, investigations and enforcement	31,000,000	31,369,000
Nuclear material and low-level waste safety and safeguards regulation	61,880,000	63,025,000
High-level nuclear waste regulation (from nuclear waste fund)	22,000,000	22,000,000
Nuclear safety management and support	164,244,000	164,062,000

(b) This section provides a limitation on the amount of moneys that may be utilized by the Commission for grants and cooperative agreements with organizations such as universities, State and local governments, and not-for-profit institutions.

(c) This section provides the Commission with the authority to reprogram funds among the program activities specified in Section 2.(a) with certain specified constraints. Funds authorized to be appropriated from the Nuclear Waste Fund will be used only for NRC's high-level nuclear waste activities and will not be reprogrammed for other NRC activities.

Section 3

This section provides authorization for moneys received by the Commission for the cooperative nuclear safety research program, for services rendered to foreign governments and international organizations, for costs of certain licensee security investigations (including fingerprint examinations and criminal history checks) to be retained and used for salaries and expenses associated with those activities, subject to appropriations, and for such moneys to remain available until expended, notwithstanding the provisions of Section 3302 of Title 31 of the United States Code.

Under the cooperative nuclear safety research program, funds are received from domestic entities, foreign governments, and international organizations for their participation in NRC's reactor safety research experiments. Under section 3, the NRC would be authorized to receive directly compensation from foreign governments and international organizations for providing safety assistance and other services related to promoting the public health and safety. Funds are also received in the form of fees from licensees for the cost of security investigations and related processing associated with access to formula quantities of special nuclear material and for the cost of fingerprint examinations and criminal history checks of each individual granted access to safeguards information or unescorted access to a nuclear power plant. These funds will be used to pay the related NRC processing costs and the agency performing the security investigations. NRC will also use the money currently collected under 10 CFR Part 25, to pay the NRC processing costs and the Office of Personnel Management for conducting background investigations used as a basis for NRC security clearances for designated licensee representatives and other personnel requiring access to classified information.

Section 4

This section provides for limited transfer authority from NRC's Salaries and Expenses appropriation, except for appropriations from the Nuclear Waste Fund, to its Office of the Inspector General appropriation. This will permit the NRC to augment the Inspector General appropriation on a limited basis, if it becomes necessary, without seeking additional appropriations for that fiscal year.

Section 5

This section provides language required by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), Section 401(a).●

● Mr. LIEBERMAN. Mr. President, today Senator BAUCUS, Senator SIMPSON, and I are introducing by request of the Nuclear Regulatory Commission [NRC] the NRC's proposed authorization bill for fiscal years 1994 and 1995 and the NRC's legislative proposals for the 103d Congress.

The Subcommittee on Clean Air and Nuclear Regulation will be conducting a hearing at the end of June on these proposals. It is my hope that after this hearing the subcommittee will proceed to markup and recommend legislation for consideration by the full Committee on Environment and Public Works.

Since these bills are being introduced by request, at this time I am taking no position on the merits of any of the legislative proposals. However, I intend to carefully consider these proposals in the coming months, and eventually proceed to markup. I encourage anyone interested in these proposals to examine them and to provide comments to the subcommittee.●

By Mr. KERRY:

S. 1163. A bill to reduce spending and tax subsidies in order to reduce the budget deficit, and for other purposes; to the Committee on Finance.

BUDGET DEFICIT REDUCTION ACT OF 1993

Mr. KERRY. Mr. President, I am introducing a bill today, the Budget Deficit Reduction Act of 1993, that will cut Federal spending $85 billion over the next 5 years. I am offering this bill because I believe that there is much more that we can and must do to cut unnecessary programs and subsidies to the wealthy from the Federal budget before we turn to increasing the taxes paid by the middle class.

The taxpayers know, and so do we, that there is still room to cut the budget without, gravely harming our ability to meet pressing national needs—even after the $329 billion in cuts proposed by the President. There are programs that reflect economic priorities of the past, programs designed to protect the United States against cold war dangers, programs that were initiated only to satisfy powerful political constituencies, and many other programs that persist despite the fact that they benefit the few at the expense of the many.

That is the reality, and when we deny it we succeed only in making people cynical about their elected officials. We in Congress should not propose raising taxes or hurting those who need

our help before we have cut all the expenditures that are unnecessary or wasteful.

President Clinton is the first President in over a decade to truly demonstrate leadership by proposing to cut back some of these programs. As a result, his economic plan would cut the deficit in half as a percent of GDP by 1997. But the cuts he includes in his plan have been subject to endless attacks from the special interests, who propose that someone else's program be cut before theirs. Even in Congress, where Members of both parties have chided the President for not cutting enough, many of the cuts he originally proposed were whittled away by Members protecting their parochial interests.

In light of the $300 billion annual Federal deficit and $4 trillion national debt, we cannot be swayed by special interest pleading. At a time when we are asking middle-income Americans to pay more in taxes, we must face tough choices. In fact, we should go even further than the President has suggested. This is a unique opportunity, while the Nation is focused on deficit reduction and crying out for change in how the Federal Government conducts its business. If we take a bold step, we can restore some integrity to the Federal Government and its budget process.

The bill I am introducing would cut programs across the Federal Government. It would eliminate the Wool and Mohair Price Support Program which subsidizes mohair goat ranchers. This subsidy was initiated as a national security program to ensure an adequate supply of mohair for military uniforms. Now, the only use for mohair in the military is for the braids on uniforms. The program provides such large subsidies to individual farmers that the President proposed to limit subsidies to $50,000 per person. I propose we eliminate it entirely.

The Deficit Reduction Act of 1993 would eliminate funding for NASA's space station. The space station does not further many of the traditional objectives of U.S. space policy; it does not serve significant national security purposes—the Department of Defense has expressed very limited interest in using it; and many civilian scientific goals could be met earlier, and at less cost, with a more modest program. Further, many scientists argue that the station absorbs funds that would be better spent on space science and exploration, whose returns are better known. Yet current plans are to spend at least $30 billion over the decade on the program. President Clinton's plan would redesign the space station to save $2.5 billion over the next 5 years. I propose we eliminate it entirely.

Eliminating the space station is an idea that Senator BUMPERS of Arkansas has championed for years, to little avail. Several other cuts that Senator BUMPERS has worked on are included as well, including eliminating the grazing subsidy for ranchers on Federal lands and the hardrock mining subsidy for those who mine on Federal lands. These programs overwhelmingly benefit wealthy ranchers and miners. The President's original plan proposed eliminating these subsidies but in the end the President compromised by saying he would not push for their elimination.

The Deficit Reduction Act of 1993 would eliminate the cotton and rice price support programs, or subsidies. It would charge couples who earn over $150,000 per year 100 percent of their physicians' costs under Medicare. It would eliminate several space programs. And it would cut wasteful defense programs.

The bill does not spare Massachusetts. A number of companies and universities in Massachusetts receive funding for various subcontractor responsibilities. These institutions have written, called, and visited me to make the case for these projects. Although their arguments are good ones, the Government cannot afford these expensive projects when we are facing the need for entitlement cuts and tax increases. Much as I would like to exempt projects that benefit people in my State, I know that the times demand that each Member of Congress—and each voter—put aside his narrow self-interest and focus on what is best for the Nation as a whole.

Mr. President, this bill is not a silver bullet. There is much more that needs to be done before we can bring the deficit under control so that our children will have a secure economic future. Just last week, I worked closely with the administration to streamline Federal broadcasting programs. And I have been working hard to eliminate waste, fraud, and abuse left over at the Department of Housing and Urban Development from earlier administrations. We need to focus more on efforts like this—efforts that do not necessarily grab headlines, because they are not sweeping changes in the budget process, but which get to the bottom of the problem of wasted taxpayer dollars. We must also stop the growth in entitlement spending, beginning with health care reform. And, in the end, I believe we will not be able to avoid the need to raise taxes as well. But we should not make average citizens pay more until we can guarantee them that we are spending their money as wisely as we can. I hope that this bill will illustrate that there is much more that can be done if we are willing to make some very tough choices.

Mr. President, I ask unanimous consent that the full text of the bill and the section-by-section analysis appear in the RECORD following my remarks.

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

S. 1163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budget Deficit Reduction Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

Sec. 101. Elimination of wool and mohair price support program.
Sec. 102. Elimination of cotton price support and production adjustment programs.
Sec. 103. Elimination of rice price support and production adjustment programs.
Sec. 104. General conforming amendments.
Sec. 105. Powers of Commodity Credit Corporation.
Sec. 106. Transition provisions.
Sec. 107. Effective date.

TITLE II—COMMERCE, SCIENCE, AND TRANSPORTATION

Sec. 201. Termination of the advanced solid rocket motor program and the space exploration initiative program.
Sec. 202. Termination of the space station program.
Sec. 203. Radio spectrum auction.

TITLE III—ENERGY AND NATURAL RESOURCES

Sec. 301. Elimination of superconducting super collider.
Sec. 302. Increase in domestic livestock grazing fees.
Sec. 303. Hardrock mining.

TITLE IV—FINANCE

Sec. 401. Premiums under part B of the medicare program to cover 100 percent of costs for certain individuals.

TITLE VI—NATIONAL DEFENSE

Sec. 601. Reduction in the operating tempo of ballistic missile submarines.
Sec. 602. Reduction in the attack submarine force.
Sec. 603. Reduction in the antisubmarine warfare weapon systems of the Navy.
Sec. 604. Reduction in number of light divisions.
Sec. 605. Reduction in number of tactical fighter wings.
Sec. 606. Limitation on expenditures for nuclear weapons research, development, and testing activities of the Department of Energy.
Sec. 607. Strategic Defense Initiative.
Sec. 608. Termination of the MHC(V) coastal mine-hunting ship program.
Sec. 609. Termination of the Kinetic Energy Anti-satellite Attack program.
Sec. 610. Required exercise of early retirement authority.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Cost savings.
Sec. 702. Effective date.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 101. ELIMINATION OF WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—The National Wool Act of 1954 (7 U.S.C. 1781 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(a)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 102. ELIMINATION OF COTTON PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.

(a) PRICE SUPPORT PROGRAMS.—

(1) IN GENERAL.—Sections 103, 103A, 103B, 203, and 420 of the Agricultural Act of 1949 (7 U.S.C. 1444, 1444-1, 1444-2, 1446d, and 1432) are repealed.

(2) FACTORS FOR DETERMINING LEVEL OF SUPPORT.—Section 401(b) of such Act (7 U.S.C. 1421(b)) is amended—

(A) by inserting "and" before "(8)"; and

(B) by striking ", and (9) in the case of upland cotton, changes in the cost of producing such cotton".

(b) ACREAGE ALLOTMENTS AND MARKETING QUOTAS.—

(1) MARKETING QUOTAS.—Part IV of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1341 et seq.) is repealed.

(2) SKIPROW PRACTICES.—Section 374(a) of such Act (7 U.S.C. 1374(a)) is amended by striking the third sentence.

(3) PRESERVATION OF UNUSED ACREAGE ALLOTMENTS.—The first sentence of section 377 of such Act (7 U.S.C. 1377) is amended by striking "for such year" and all that follows through "Great Plains program):" and inserting "for the year:".

(4) PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON.—Section 505 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1342 note) is repealed.

(5) COTTON ACREAGE ALLOTMENTS.—The Act of March 29, 1949 (63 Stat. 17, chapter 38; 7 U.S.C. 1344a) is repealed.

SEC. 103. ELIMINATION OF RICE PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.

(a) PRICE SUPPORT PROGRAMS.—Sections 101A and 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-1 and 1441-2) are repealed.

(b) ACREAGE ALLOTMENTS AND MARKETING QUOTAS.—

(1) MARKETING QUOTAS.—Part V of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1351) is repealed.

(2) MARKETING PENALTY.—The Joint Resolution entitled "Joint Resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1340), is amended—

(A) by striking paragraphs (8) and (9); and

(B) by redesignating paragraphs (10) through (12) as paragraphs (8) through (10), respectively.

SEC. 104. GENERAL CONFORMING AMENDMENTS.

(a) ACREAGE BASE AND YIELD SYSTEM.—

(1) PURPOSE.—Section 501 of the Agricultural Act of 1949 (7 U.S.C. 1461) is amended by striking "wheat, feed grains, upland cotton, and rice" and inserting "wheat and feed grains".

(2) DEFINITIONS.—Section 502(3) of such Act (7 U.S.C. 1462(3)) is amended by striking "barley, upland cotton, or rice" and inserting "or barley".

(3) CROP ACREAGE BASES.—Section 503 of such Act (7 U.S.C. 1463) is amended—

(A) by striking subsection (b) and inserting the following new subsection:

"(b) CALCULATION.—The crop acreage base for each program crop for a farm for a crop year shall be the number of acres that is equal to the average of the acreage planted and considered planted to the program crop for harvest on the farm in each of the 5 crop years preceding the crop year.";

(B) in subsection (c)(3), by striking "wheat, feed grains, upland cotton, and rice established under sections 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), and 101B(c)(1)(D), respectively" and inserting "wheat and feed grains established under sections 107B(c)(1)(E) and 105B(c)(1)(E), respectively";

(C) in subsection (g), by striking "or crop of extra long staple cotton" both places it appears; and

(D) by striking subsection (h) and inserting the following new subsection:

"(h) ADJUSTMENT OF BASES.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any crop acreage base for any program crop for any farm if the crop acreage base for the crop on the farm would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.".

(b) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "wheat, feed grains, upland cotton, extra long staple cotton, and rice" and inserting "wheat and feed grains"; and

(B) in subparagraph (B), by striking "upland cotton, rice,"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "upland cotton, extra long staple cotton, rice,"; and

(B) in subparagraph (B), by striking clauses (v) and (vi) and inserting the following new clauses:

"(v) any loan deficiency payment received for a crop of wheat, feed grains, or oilseeds under section 107B(b), 105B(b), or 205(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(b), 1444f(b), or 1446f(e)), respectively; and

"(vi) any inventory reduction payment received for a crop of wheat or feed grains under section 107B(f) or 105B(f) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(f) or 1444f(f)), respectively.".

(c) PROVISIONS RELATED TO AGRICULTURAL ACT OF 1949.—

(1) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(A) in subsection (a), by striking "For rice of the 1959" and all that follows through "65 per centum of the parity price"; and

(B) in subsection (b), by striking "cotton and".

(2) ADVANCED DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of such Act (7 U.S.C. 1445j) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "wheat, feed grains, upland cotton, or rice" and inserting "wheat or feed grains"; and

(ii) in paragraph (2)(F), by striking clause (iii) and inserting the following new clause:

"(iii) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate,"; and

(B) in subsection (b), by striking "wheat, feed grains, upland cotton, or rice" and inserting "wheat or feed grains".

(3) COMMODITY CERTIFICATES.—Section 115(a) of such Act (7 U.S.C. 1445k(a)) is amended by striking "wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice)" and inserting "wheat or feed grains".

(4) INCREASE OF PRICE SUPPORT LEVELS.—Section 402(b) of such Act (7 U.S.C. 1422(b)) is amended by striking "wheat, feed grains, cotton, and rice" and inserting "wheat and feed grains".

(5) ADVANCE PARTICIPATION.—Section 406(b) of such Act (7 U.S.C. 1426(b)) is amended—

(A) in paragraph (1), by striking "upland cotton, extra long staple cotton, rice,";

(B) in paragraph (2), by striking "101B, 103B,";

(C) in paragraph (3)—

(i) by striking "cotton, rice,";

(ii) by striking subparagraphs (C), (D), and (E); and

(iii) by redesignating subparagraphs (F) and (G) as subparagraphs (C) and (D), respectively; and

(D) in paragraph (4), by striking "cotton, rice,".

(6) DEFINITIONS.—Section 408 of such Act (7 U.S.C. 1428) is amended—

(A) in subsection (b), by striking "Secretary: *Provided*, That for upland cotton" and all that follows through the end of the subsection and inserting "Secretary.";

(B) in subsection (c), by striking "cotton, peanuts, rice," and inserting "peanuts,"; and

(C) in subsection (k), by striking "upland cotton, extra long staple cotton, honey, oilseeds, and rice" each place it appears and inserting "honey, and oilseeds".

(d) MISCELLANEOUS COMMODITY PROVISIONS.—

(1) NORMAL SUPPLY.—Section 1019 of the Food Security Act of 1985 (7 U.S.C. 1310a) is amended by striking "wheat, corn, upland cotton, or rice" and inserting "wheat or corn".

(2) AMERICAN AGRICULTURE PROTECTION PROGRAM.—Section 1002(c) of the Food and Agriculture Act of 1977 (7 U.S.C. 1310(c)) is amended by striking "rice, flaxseed, and cotton" and inserting "and flaxseed".

(3) HAY PRODUCTION ON SET-ASIDE OR DIVERTED ACREAGE.—Section 805(a) of the Agricultural Act of 1970 (7 U.S.C. 1339d(a)) is amended—

(A) by striking ", in the feed" and inserting "or in the feed"; and

(B) by striking "or in the cotton program under Title VI of this Act,".

(4) READJUSTMENT OF SUPPORT LEVELS.—Section 1302(b)(1) of the Omnibus Budget Reconciliation Act of 1990 (7 U.S.C. 1421 note) is amended by striking "wheat, feed grains, upland cotton, or rice established under section 107B(e), 105B(e), 103B(e), or 101B(e) of the Agricultural Act of 1949 (as amended by sections 301, 401, 501, and 601 of the Food, Agriculture, Conservation, and Trade Act of 1990), respectively" and inserting "wheat or feed grains established under section 107B(e) or 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e) or 1444f(e)), respectively".

(5) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(A) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c-1(a)(2)(A)) is amended by striking "wheat, feed grains, cotton, and rice" and inserting "wheat and feed grains".

(6) INTEGRATED FARM MANAGEMENT PROGRAM OPTION.—Section 1451(h)(7) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822(h)(7)) is amended—

(A) in subparagraph (A), by striking "wheat, feed grains, cotton, or rice" and inserting "wheat or feed grains"; and

(B) in subparagraph (B)(ii), by striking "section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E)" and inserting "105B(c)(1)(E) or 107B(c)(1)(E)".

(7) TARGETED OPTION PAYMENTS.—Section 121(b) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (105 Stat. 1843) is amended by striking "wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural

Act of 1949 (7 U.S.C. 1445b-3a(e)(3), 1444f(e)(3), 1444-2(e)(3), and 1441-2(e)(3)), respectively" and inserting "wheat and feed grains as authorized by sections 107B(e)(3) and 105B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e)(3) and 1444f(e)(3)), respectively".

(e) ACREAGE ALLOTMENTS AND MARKETING QUOTAS.—

(1) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "cotton, wheat, corn, tobacco, and rice" and inserting "wheat, corn, and tobacco".

(2) DEFINITIONS.—Section 301(b) of such Act (7 U.S.C. 1301(b)) is amended—

(A) in paragraph (1)(B), by striking "cotton, rice or peanuts" and inserting "peanuts";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "corn, rice, and peanuts" and inserting "corn and rice";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(C) in paragraph (6)(A), by striking "cotton, rice,";

(D) in paragraph (7), by striking the following:

"Cotton, August 1—July 31;";

"Rice, August 1—July 31;";

(E) in paragraph (8)(A)—

(i) by striking "cotton or";

(ii) by striking "in the case of wheat, and during the five calendar years in the case of cotton,"; and

(iii) by striking ", in the case of wheat, but not in the case of cotton,";

(F) in paragraph (9)—

(i) in the first sentence, by striking "or rice"; and

(ii) in the second sentence, by striking "cotton or";

(G) in paragraph (10)—

(i) in subparagraph (A)—

(I) by striking "rice,"; and

(II) by striking "10 per centum in the case of rice;"; and

(ii) by striking subparagraph (C);

(H) in paragraph (11)—

(i) in subparagraph (B), by striking "cotton and"; and

(ii) by striking subparagraph (C);

(I) in paragraph (12)—

(i) by striking "cotton, rice,"; and

(ii) by striking "(or, in the case of rice, the five marketing years)";

(J) in paragraph (13)—

(i) by striking subparagraphs (H), (I), (L), and (M); and

(ii) in the first sentence of subparagraph (D)—

(I) by striking "rice and";

(II) by striking "of rice or wheat, as the case may be," and inserting "of wheat";

(III) by striking "county during the five calendar years" and all that follows through "rice, or" and inserting "county"; and

(IV) by striking "in the case of wheat";

(iii) in the first sentence of subparagraph (E)—

(I) by striking "rice and";

(II) by striking "of rice or wheat, as the case may be," and inserting "of wheat";

(III) by striking "farm during the five calendar years" and all that follows through "rice, or" and inserting "farm"; and

(IV) by striking "in the case of wheat"; and

(iv) by redesignating subparagraphs (J) and (K) as subparagraphs (H) and (I), respectively; and

(K) in paragraph (16)—

(i) in subparagraph (A), by striking "rice,"; and

(ii) by striking subparagraph (C).

(3) PARITY PAYMENTS.—Section 303 of such Act (7 U.S.C. 1303) is amended by striking "cotton, rice,".

(4) ACREAGE ALLOTMENTS.—Section 344(f)(2) of such Act (7 U.S.C. 1344(f)(2)) is amended by striking "wheat, tobacco, or rice for market;" and inserting "wheat or tobacco for market;".

(5) ADMINISTRATIVE PROVISIONS.—Section 361 of such Act (7 U.S.C. 1361) is amended by striking "cotton, peanuts, and rice" and inserting "and peanuts".

(6) ADJUSTMENT OF QUOTAS.—Section 371 of such Act (7 U.S.C. 1371) is amended—

(A) in subsection (a), by striking "cotton, rice, peanuts, or tobacco" and inserting "peanuts or tobacco"; and

(B) in subsection (b), by striking "cotton, rice,".

(7) COLLECTION OF PENALTIES.—Section 372(a) of such Act (7 U.S.C. 1372(a)) is amended by striking "cotton, or rice,".

(8) REPORTS AND RECORDS.—Section 373 of such Act (7 U.S.C. 1373) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking "cotton, rice," both places it appears; and

(ii) by striking ", and all ginners of cotton"; and

(B) in subsection (b), by striking "cotton, rice,".

(9) REGULATIONS.—Section 375(a) of such Act (7 U.S.C. 1375(a)) is amended by striking "cotton, rice,".

(10) EMINENT DOMAIN.—Section 378(c) of such Act (7 U.S.C. 1378(c)) is amended by striking the first sentence and inserting the following new sentence: "This section shall not be applicable in the case of tobacco and peanuts, to any farm from which the owner was displaced prior to 1950, and in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954.".

(11) FINALITY OF FARMERS PAYMENTS AND LOANS.—The first sentence of section 385 of such Act (7 U.S.C. 1385) is amended by striking "wheat, feed grain, upland cotton, extra long staple cotton, and rice" and inserting "wheat and feed grain".

SEC. 105. POWERS OF COMMODITY CREDIT CORPORATION.

Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after "agricultural commodities" the following: "(other than wool, mohair, cotton, or rice)".

SEC. 106. TRANSITION PROVISIONS.

The amendments made by this title shall not affect the liability of any person under any provision of law as in effect before the application of the amendments in accordance with section 109.

SEC. 107. EFFECTIVE DATE.

This title and the amendments made by this title shall apply beginning with—

(1) in the case of upland cotton, extra long staple cotton, and rice, the 1993 crop year; and

(2) in the case of wool and mohair, the marketing year beginning January 1, 1994.

TITLE II—COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 201. TERMINATION OF THE ADVANCED SOLID ROCKET MOTOR PROGRAM AND THE SPACE EXPLORATION INITIATIVE PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available for use on—

(1) the Advanced Solid Rocket Motor; or

(2) the Space Exploration Initiative.

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the programs listed in paragraphs (1) and (2) of that subsection.

(c) UNEXPENDED FUNDS.—Any funds appropriated for use on the programs listed in paragraphs (1) and (2) of subsection (a) that remain unobligated and unexpended 90 days after the date of enactment of this section shall be credited to the general revenues of the United States Treasury.

SEC. 202. TERMINATION OF THE SPACE STATION PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available to carry out the provisions of section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (42 U.S.C. 2451 note).

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the United States International Space Station Freedom program.

(c) UNEXPENDED FUNDS.—Any funds appropriated for use on the United States International Space Station Freedom program that remain unexpended and unobligated 90 days after the date of enactment of this section shall be credited to the general revenues of the United States Treasury.

SEC. 203. FEDERAL AVIATION ADMINISTRATION USER FEES.

(a) ESTABLISHMENT OF USER FEES.—No later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration (hereafter in this section the "Administrator") shall establish and collect user fees for users of the Air Traffic Control system (hereafter in this section the "ATC" system).

(b) FACTORS.—The fees established in accordance with subsection (a) shall be based upon—

(1) the number of ATC facilities utilized by the user on a flight; and

(2) the marginal costs of such usage at each ATC facility.

(c) DEPOSIT OF FEES.—The Administrator shall deposit the fees collected in accordance with subsection (a) into the general revenues of the United States Treasury.

(d) USER DEFINED.—As used in this section, the term "user" means—

(1) commercial air carriers;

(2) commuter carriers; and

(3) general aviation.

SEC. 204. RADIO SPECTRUM AUCTION.

Within the 180 day period following the date of the enactment of this Act, the Federal Communications Commission shall initiate an auction process, comparable to that used for oil-drilling rights on the Outer Continental Shelf, to be utilized in the assignment, after the expiration of such period, of licenses for the radio spectrum.

TITLE III—ENERGY AND NATURAL RESOURCES

SEC. 301. ELIMINATION OF SUPERCONDUCTING SUPER COLLIDER.

(a) FUNDING PROHIBITION.—Beginning on the date of enactment of this Act, the United States may not obligate any funds for the Superconducting Super Collider described in section 7 of Appendix A to part 605 of title 10, Code of Federal Regulations.

(b) EXPENDITURE OF FUNDS PROHIBITED.—Except as provided in subsection (d), and except in the case of a contract or agreement entered into before the date of enactment of this Act, or moneys obligated prior to the

date, no funds appropriated by Congress shall be expended on or after the date of enactment of this Act, in any fiscal year, in connection with the Superconducting Super Collider.

(c) CONTRACT AND AGREEMENT PROHIBITION.—Except as provided in subsection (d), beginning on the date of enactment of this Act, no department, agency, or other instrumentality of the United States, or any officer or employee of the department, agency, or instrumentality, shall enter into any contract or other agreement in connection with the Superconducting Super Collider.

(d) EXCEPTION.—Subsections (b) and (c) shall not be applicable to any funds appropriated, or any contract or agreement entered into, solely for the purpose of terminating, pursuant to this Act, any action or activity involving the Superconducting Super Collider.

SEC. 302. INCREASE IN DOMESTIC LIVESTOCK GRAZING FEES.

(a) IN GENERAL.—Section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751) is amended by adding at the end the following new subsections:

"(c)(1)(A) Subject to subparagraph (B), the Secretary of Agriculture, with respect to National Forest System lands in the 16 contiguous Western States (except national grasslands) administered by the Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public domain lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish beginning with the grazing season that begins on March 1, 1994, an annual domestic livestock grazing fee equal to fair market value.

"(B) The grazing fee charged for any given year under subparagraph (A) shall not increase nor decrease by more than 33.3 percent from the grazing fee charged for the previous year.

"(2)(A) As used in this subsection, the term 'fair market value' means the amount obtained in accordance with the following formula:

$$\text{Fair Market Value} = \frac{\text{Appraised Base Value} \times \text{Forage Value Index}}{100}$$

"(B) As used in subparagraph (A):

"(i) The term 'Appraised Base Value' means the 1983 Appraisal Value conclusions for mature cattle and horses (expressed in dollars per head or per month), as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of the Interior entitled 'Grazing Fee Review and Evaluation', dated February 1986, on a westwide basis using the lowest appraised value of the pricing areas adjusted for advanced payment and indexed to 1993.

"(ii) The term 'Forage Value Index' means the Forage Value Index (FVI) computed annually by the Economic Research Service of the Department of Agriculture, and set with the 1993 Forage Value Index equal to 100.

"(3) EXECUTIVE ORDER.—Executive Order 12548 (43 U.S.C. 1905 note; relating to determination of grazing fees by Secretaries of Agriculture and Interior) shall not apply to grazing fees established pursuant to this Act.

"(d) The grazing advisory boards established pursuant to Secretarial action, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17674), are abolished. The advisory functions exercised by the boards shall, after the date of enactment of this subsection, be exercised only by the appropriate councils established under this section.

"(e)(1) Funds made available under section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904) or any other law relating to disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous Western States shall be used for—

"(A) restoration and enhancement of fish and wildlife habitat;

"(B) restoration and improved management of riparian areas; and

"(C) implementation and enforcement of applicable land management plans, allotment plans, and regulations regarding the use of the lands for domestic livestock grazing.

"(2) The funds described in paragraph (1) shall be distributed as the Secretary of the Interior or the Secretary of Agriculture, as appropriate, determines advisable after consultation and coordination with the advisory councils established pursuant to section 309 and other interested parties.".

(b) DEFINITION OF 16 CONTIGUOUS WESTERN STATES.—Section 103 of such Act (43 U.S.C. 1702) is amended by adding at the end the following new subsection:

"(q) The term '16 contiguous Western States' means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.".

SEC. 303. HARDROCK MINING.

(a) DEFINITIONS.—For purposes of this section:

(1) CLAIMANT.—The term "claimant" means any person who, under the general mining laws—

(A) locates a claim;

(B) explores, develops, or produces locatable minerals from a claim; or

(C) is responsible for reclamation.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to land under the jurisdiction of the Secretary of the Interior, and the Secretary of Agriculture with respect to lands under the jurisdiction of the Secretary of Agriculture.

(b) ANNUAL HOLDING FEE.—

(1) FEE.—The following amounts shall be paid by the claimant to the Secretary each year to maintain the claim:

(A) $5 per acre during years 1 through 5;

(B) $10 per acre during years 6 through 10;

(C) $15 per acre during years 11 through 15; and

(D) $20 per acre for each year thereafter.

(2) SUSPENSION.—

(A) IN GENERAL.—Payment of the annual holding fee required by this subsection shall be suspended upon the payment of the royalty required by subsection (c) in an amount equal to or greater than the applicable annual holding fee.

(B) REINSTATEMENT.—During any subsequent period of non-production, or period when the royalty required by subsection (c) is an amount less than the applicable annual holding fee, the claimant shall pay to the Secretary the applicable annual holding fee.

(3) FAILURE TO PAY.—

(A) ABANDONMENT OF CLAIM.—Failure to timely pay the location fee or maintenance fee required by this section for a claim shall constitute conclusively an abandonment of the claim. The claim shall be deemed null and void by operation of law.

(B) NEW CLAIMS.—The claimant shall be prohibited from locating a new claim on the lands included in an abandoned claim for 1 year beginning on the date the claim is deemed null and void by operation of law.

(4) RELINQUISHMENT.—

(A) NOTIFICATION OF RELINQUISHMENT.—A claimant choosing not to pursue mineral activity on a claim may relinquish the claim by notifying the Secretary.

(B) EFFECT OF RELINQUISHMENT.—

(i) NEW CLAIMS.—Subject to clause (ii), a claimant who relinquishes a claim shall not be subject to the prohibition of paragraph (3).

(ii) AVOIDANCE.—If the Secretary determines that a claim is being relinquished and relocated for the purpose of avoiding compliance with any provision of the general mining laws, including payment of the applicable annual holding fee, the claimant shall be subject to the prohibition in paragraph (3)(B).

(c) ROYALTY.—

(1) RESERVATION OF ROYALTY.—Production of locatable minerals (including associated minerals) from any mining claim located or converted under the general mining laws, or mineral concentrates derived from locatable minerals produced from any mining claim located or converted under the general mining laws, as the case may be, shall be subject to a royalty of not less than 8 percent of the gross income from the production of the locatable minerals or concentrates, as the case may be.

(2) ROYALTY PAYMENTS.—Royalty payments shall be made to the United States not later than 30 days after the end of the month in which the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry.

(3) REPORTING REQUIREMENTS.—All persons holding claims under the general mining laws shall be required to provide such information as the Secretary determines is necessary to ensure compliance with this subsection, including—

(A) quarterly reports, that may include pertinent technical and financial data relating to the quantity, quality, and amount of all minerals extracted from the mining claim;

(B) records;

(C) documents; and

(D) other data.

(4) AUDITS.—The Secretary shall conduct such audits of all persons holding claims under the general mining laws as the Secretary determines are necessary to ensure compliance with the requirements of this subsection.

(5) COMPLIANCE.—Any person holding claims under the general mining laws who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this subsection, or fails or refuses to submit information, shall be subject to forfeiture of the claim.

(6) REGULATIONS.—The Secretary shall promulgate regulations to establish gross income for royalty purposes under paragraph (1) and to ensure compliance with this subsection.

(7) REPORT.—The Secretary shall submit to Congress an annual report on the implementation of this subsection. The information to be included in the report shall include—

(A) aggregate and State-by-State production data; and

(B) projections of mid-term and long-term hard rock mineral production and trends on public lands.

TITLE IV—FINANCE

SEC. 401. PREMIUMS UNDER PART B OF THE MEDICARE PROGRAM TO COVER 100 PERCENT OF COSTS FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1)" and inserting "(a)(1)(A)";

(B) by striking "1983" and inserting "1994";

(C) by striking "one-half" and inserting "50 percent"; and

(D) by adding at the end the following new subparagraph:

"(B) In the case of any enrollee age 65 and older who has a modified adjusted gross income (as defined in section 86(b)(2) of the Internal Revenue Code of 1986) for the preceding taxable year which exceeds $125,000 ($150,000 in the case of a married enrollee), subparagraph (A) shall be applied by substituting '100 percent' for '50 percent'.";

(2) in subsection (a)(2), by striking "1983" and inserting "1994";

(3) in subsection (a)(3), by striking "1983" and inserting "1994"; and

(4) by amending subsection (e) to read as follows:

"(e) Notwithstanding the provisions of subsection (a) (except with respect to individuals described in paragraph (1)(B) of such subsection), the monthly premium for each individual enrolled under this part for each month in—

"(1) 1994 shall be $41.10, and

"(2) 1995 shall be $46.10.".

(b) TECHNICAL AMENDMENTS.—Section 1839 of such Act (42 U.S.C. 1395r) is amended by striking "he" and "him" each place such terms appear and inserting "the Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 1993.

TITLE VI—NATIONAL DEFENSE

SEC. 601. REDUCTION IN THE OPERATING TEMPO OF BALLISTIC MISSILE SUBMARINES.

(a) NUMBER OF SUBMARINES ON PATROL CONCURRENTLY.—After September 30, 1993, funds may not be expended to operate more than 6 ballistic missile submarines of the Navy on patrol at sea concurrently.

(b) NUMBER OF CREWS FOR EACH SUBMARINE.—After September 30, 1993, funds may not be expended for more than one crew for each ballistic missile submarine of the Navy.

(c) WAIVER AUTHORITY.—The President may waive either or both of the limitations in this section whenever the President determines that—

(1) there exists an international crisis that threatens national security interests of the United States; and

(2) it is in the national security interests of the United States to waive such limitation or limitations in connection with such crisis.

SEC. 602. REDUCTION IN THE ATTACK SUBMARINE FORCE.

(a) NUMBER OF SUBMARINES AFTER FY97.—After September 30, 1997, funds may not be expended for a force of more than 40 commissioned attack submarines in the Navy.

(b) WAIVER AUTHORITY.—The President may waive the limitation in subsection (a) to the extent that the President determines necessary in the national security interests of the United States.

SEC. 603. REDUCTION IN THE ANTISUBMARINE WARFARE WEAPON SYSTEMS OF THE NAVY.

(a) P-3 AIRCRAFT SQUADRONS.—Funds may not be expended—

(1) after September 30, 1995, to support more than 32 P-3 aircraft squadrons in the Navy;

(2) after September 30, 1996, to support more than 27 P-3 aircraft squadrons in the Navy;

(3) after September 30, 1997, to support more than 23 P-3 aircraft squadrons in the Navy; and

(4) after September 30, 1998, to support more than 19 P-3 aircraft squadrons in the Navy.

(b) FF-1052 CLASS FRIGATES.—After September 30, 1994, funds may not be expended to support any commissioned FF-1052 class frigate.

(c) WAIVER AUTHORITY.—The President may waive the limitation in subsection (a) to the extent that the President determines necessary in the national security interests of the United States.

SEC. 604. REDUCTION IN NUMBER OF LIGHT DIVISIONS.

(a) DEACTIVATION REQUIRED.—Funds may not be expended—

(1) after September 30, 1994, to support more than 3 light infantry divisions in the Army;

(2) after September 30, 1995, to support more than 2 light infantry divisions in the Army; and

(3) after September 30, 1996, to support more than 1 light infantry division in the Army.

(b) WAIVER AUTHORITY.—The President may waive the provisions of this section to the extent that the President determines necessary in the national security interests of the United States.

SEC. 605. REDUCTION IN NUMBER OF TACTICAL FIGHTER WINGS.

(a) DEACTIVATION REQUIRED.—Funds may not be expended—

(1) after September 30, 1994, to support more than—

(A) 12 tactical fighter wings in the active component of the Air Force; and

(B) 10 tactical fighter wings in the reserve components of the Air Force; and

(2) after September 30, 1995, to support more than—

(A) 11 tactical fighter wings in the active component of the Air Force; and

(B) 9 tactical fighter wings in the reserve components of the Air Force.

(b) WAIVER AUTHORITY.—The President may waive the provisions of this section to the extent that the President determines necessary in the national security interests of the United States.

SEC. 606. LIMITATION ON EXPENDITURES FOR NUCLEAR WEAPONS RESEARCH, DEVELOPMENT, AND TESTING ACTIVITIES OF THE DEPARTMENT OF ENERGY.

Notwithstanding any other provision of law, the total amount that may be expended by the Department of Energy for operating expenses incurred in carrying out weapons research and development activities and weapons testing activities necessary for national security programs during—

(1) fiscal year 1994, may not exceed $1,700,000,000;

(2) fiscal year 1995, may not exceed $1,700,000,000;

(3) fiscal year 1996, may not exceed $1,800,000,000;

(4) fiscal year 1997, may not exceed $1,700,000,000; and

(5) fiscal year 1998, may not exceed $1,300,000,000.

SEC. 607. STRATEGIC DEFENSE INITIATIVE.

Notwithstanding any other provision of law, funds available for obligation after fiscal year 1993 for the Strategic Defense Initiative and the Theater Missile Defense Initiative may be obligated only for the following:

(1) Research under the Strategic Defense Initiative.

(2) Programs, projects, and activities under the Theater Missile Defense Initiative.

SEC. 608. TERMINATION OF THE MHC(V) COASTAL MINE-HUNTING SHIP PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of the Navy shall terminate the MHC(V) coastal mine-hunting ship program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the MHC(V) coastal mine-hunting ship program may be obligated for that program only for payment of the costs associated with the termination of such program.

SEC. 609. TERMINATION OF THE KINETIC ENERGY ANTI-SATELLITE ATTACK PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of the Army shall terminate the Kinetic Energy Anti-Satellite Attack (ASAT) program of the Army.

(b) PAYMENT OF TERMINATION COSTS.—Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the Kinetic Energy Anti-Satellite Attack (ASAT) program of the Army may be obligated for that program only for payment of the costs associated with the termination of such program.

SEC. 610. REQUIRED EXERCISE OF EARLY RETIREMENT AUTHORITY.

The Secretary of Defense shall require the secretaries of the military departments to retire not less than 60,000 members of the Armed Forces of the United States before October 1, 1994, under the early retirement authority provided in section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note).

TITLE VII—GENERAL PROVISIONS

SEC. 701. COST SAVINGS.

There shall be transferred to the Secretary of the Treasury, for deposit into the general fund of the Treasury, an amount equal to the savings that result from the enactment of this Act and the amendments made by this Act.

SEC. 702. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

BUDGET DEFICIT REDUCTION ACT OF 1993

SECTION-BY-SECTION ANALYSIS

Sec. 101. Elimination of Wool and Mohair Price Support Program. The federal government supports prices of agricultural commodities and incomes of wool and mohair

ranchers by intervening in markets or making direct payments. This section would eliminate the program beginning with the 1994 marketings. Five year savings: $760 million. Savings over President's plan: $548 million.

Sec. 102. Elimination of Cotton Price Support and Production Adjustment Program. This section would eliminate the system of deficiency payments to support prices and would eliminate the below-cost loan program to cotton farmers, making planting more responsive to market conditions. Five year savings: $4.2 billion. Savings over President's plan: $3.9 billion.

Sec. 103. Elimination of Rice Price Support and Production Adjustment Program. This section would eliminate the system of deficiency payments to support prices and would eliminate the below-cost loan program to rice farmers, making planting more responsive to market conditions. Five year savings: $2.6 billion. Savings over President's plan: $2.3 billion

Sec. 104. General Conforming Amendments. This section would amend current law to remove references to programs eliminated under this title.

Sec. 105. Powers of Commodity Credit Corporation. This section amends the Commodity Credit Corporation Charter Act to exclude wool, mohair, cotton and rice from the commodities affected by that Act.

Sec. 106. Transition Provisions. This section would prevent the changes to agricultural law included in this title from affecting the liability of any person.

Sec. 107. Effective Date. This section sets the effective date for changes in the crop programs to the 1993 crop year and for changes to the wool and mohair to January 1, 1994.

Sec. 201. Termination of the Advanced Solid Rocket Motor Program. The section would eliminate the ASRM which NASA is currently developing the ASRM to replace the redesigned solid rocket motor currently used to launch the space shuttle although NASA's own Aerospace Safety Advisory Panel points out that the redesigned rocket booster is performing well. Five year savings: $1.65 billion. Savings over President's plan: $1.65 billion.

Sec. 202. Termination of the Space Station Program. This section would terminate the Space Station Program which will have spent $9 billion through 1993. Many of the traditional objectives of US space policy will not be furthered by the current program and many civilian scientific goals could be met earlier, and at less cost, with a more modest program. Many scientists argue that the station will absorb funds that would be better spent on space science and exploration. Five year savings: $10.4 billion. Savings over President's plan: $13.0 billion.

Sec. 203. Radio Spectrum Auction. The Federal Communications Commission is responsible for assigning licenses to private parties who use the radio spectrum. Currently, holders of licenses who use the radio spectrum do not pay (beyond an application fee) for the right to exploit the spectrum. Initiating an auction process to assign new licenses for the radio spectrum, analogous to that used for oil-drilling rights on the Outer Continental Shelf, offers advantages in addition to federal revenues. Under most circumstances an auction would ensure that new licenses would go to the users who value them most. An auction process would decrease the cost to the government of assigning licenses and assign them more quickly than either the comparative hearing of lottery alternatives. Since an auction process need not include changes in licensee requirements or in the rights of the licensee, the FCC's role in guarding the public interest would not be compromised. Five year savings: $3.5 billion. Savings over President's plan: $3.5 billion.

Sec. 301. Elimination of Superconducting Super Collider. The Department of Energy (DOE) is building a 54-mile proton accelerator—the SCC—to investigate the origin of mass and test current theories about the unity of electromagnetism and radioactive decay. DOE currently estimates that this accelerator will cost $8.2 billion, but other estimates are much higher. The SSC is consuming a disproportionate share of US science resources and is not likely to be the source of training for as many science students as a project of its size would warrant. In addition there are large discrepancies in the cost estimates. Five year savings: $2.3 billion. Savings over President's plan: $2.2 billion.

Sec. 302. Increase in Domestic Livestock Grazing Fees. The Federal Government owns and manages more than 700 million acres of land in the U.S. This land is used in a wide range of ways, including grazing. The Forest Service and the Bureau of Land Management (BLM) administer livestock grazing on approximately 268 million acres of public rangelands in the West. These lands provide ranchers with approximately 31,000 grazing allotments and, at current leasing rates, more than 17.5 million animal unit months (AUMs) of grazing each year. In 1990, the appraised value of public rangeland in western regions varied between $5 and $10 per AUM. The Forest Service spends, on average, about $3.90 per AUM to manage its rangelands. By contrast, the 1992 permit fee was set at $1.92 per AUM under the fee formula established by the Congress. Thus the current fee structure represents a large subsidy for many of the ranchers who participate in the program. This section institutes an annual increase in the grazing fee, not to exceed 33.3 percent a year, until the fee reaches fair market value over a period of four years. Five year savings: $80 million. Savings over President's plan: $80 million.

Sec. 303. Hardrock Mining. Access to minerals—gold, silver, uranium, copper, molybdenum, and most other metals—on public lands remains governed by the General Mining Law of 1872 which requires only nominal fees for exploration and production of minerals. This section would change the hardrock mining system to resemble more closely the leasing system currently used for exploration and development of oil and gas on federal lands. Such a system would require claim holders continue to pay an annual holding or rental fee while exploring for minerals and a royalty based on the value of minerals produced when and if minerals are discovered. The principle of free access was adapted in 1872 to encourage the settlement of the West and the production of minerals vital to the development of this country, neither of which remains a relevant goal. Further, holding fees and royalties will compensate the federal government for the use of public lands and the extraction of minerals and encourage the mining industry to focus on those lands most likely to yield profitable returns, freeing up land for other public purposes such as recreation and wilderness conservation. Five year savings: $560 million. Savings over President's plan: $560 million.

Sec. 401. Premiums under Part B of the Medicare Program to Cover 100 Percent of Costs for Certain Individuals. Benefits under Medicare's Supplementary Medical Insurance (SMI) program are partially funded by monthly premiums paid by enrollees, and the remainder are paid from general revenues. Although the SMI premium was initially intended to cover 50 percent of the cost of benefits, between 1975 and 1983 premium receipts covered a declining share of SMI costs—falling from 50 percent to less than 25 percent as a result of limitations on premium increases. This section would increase premiums for higher-income people. Income-related premiums would begin at $100,000 for individuals and $125,000 for couples and would increase to the maximum total premium—covering 100 percent of costs—for individuals with incomes exceeding $125,000 and for couples with incomes over $150,000. Five year savings: $17.5 billion. Savings over President's plan: $17.5 billion.

Sec. 601. Reduction in the Operating Tempo of Ballistic Missile Submarines. The Navy plans to maintain a force of 18 Trident submarines for another 20 to 30 years. These submarines are armed with ballistic missiles that carry nuclear weapons and are an important component of the U.S. nuclear deterrent. At any given time, the U.S. keeps roughly two-thirds of the submarines at sea—a 67 percent operating tempo. The remaining one-third of the force either is undergoing overhaul or maintenance or is preparing for another 70-day deployment at sea. The Navy considers a high operating tempo an efficient way to ensure that the U.S. has enough submarines at sea so that they can retaliate with substantial force against a nuclear attack. The end of the Cold War, however, makes a smaller retaliatory capability acceptable, for three major reasons. First, the significant lessening of tension between the U.S. and Russia has profoundly reduced the likelihood of nuclear war in general and a surprise attack in particular. Second, under the START II treaty recently signed by Presidents Bush and Yeltsin, Russia would have a smaller nuclear force and, therefore, the U.S. strategic arsenal including the Trident force would have fewer targets to cover. Third, the threat to U.S. ballistic missile submarines—never considered acute even during the Cold War—has diminished because Russia now keeps virtually all of its attack submarines in port. In addition, no other potential adversary has adequate antisubmarine capability to threaten U.S. submarines. Moreover, even if tensions increased over several years, after a period of training the U.S. could once again put two-thirds of its force to sea on a permanent basis by reassigning second crews. This section would end the use of double crews and would halve the operating tempo of the Trident fleet. Five year savings: $1.7 billion.

Sec. 602. Reduction in the Attack Submarine Force. During the Cold War, the primary mission of the U.S. attack submarines was to trail, and if necessary, attack Soviet nuclear ballistic missile submarines in their protected bastions in Soviet home waters, and to control the sea in order to defend convoys headed for Europe during a war. With the end of the Cold War, both a nuclear war and a conventional war in Europe seem less likely. Instead the Navy will now emphasize missions for attack submarines in the coastal areas of developing countries, such as gathering intelligence, transporting covert forces, firing missiles aimed at land, and fighting those countries' ships and submarines to protect aircraft carriers and gain control of regional waters. Because the regional missions are not as demanding as the Cold War tasks, the Navy is reducing the current inventory of attack submarines.

This section would reduce the attack submarine force from 90 to 40 vessels by 1998. Five year savings: $2.4 billion.

Sec. 603. Reduction in the Antisubmarine Warfare Weapon Systems of the Navy. Soviet attack submarines posed a major threat to U.S. naval forces during the Cold War. The U.S. Navy maintained several types of forces designed to provide a multilayered defense against the Soviet threat, an approach it termed "defense in depth." The breakup of the Soviet Union, however, has substantially diminished the potential threat from enemy submarines. The Bush Administration recognized this reduction in the threat and lowered the priority of the antisubmarine warfare (ASW) mission. This section makes two further reductions: it reduces the P-3 number of antisubmarine aircraft squadrons and the 8FF-1052 class frigates. The first layer of the Navy's defense in depth against enemy submarines is the land-based P-3 aircraft. The P-3's mission is to locate the submarine and to destroy them by launching depth charges and torpedoes. The Navy operates 37 P-3 squadrons. This section would require retirement of half of the 37 squadrons. The Navy is currently deactivating 38 of its 46 FF-1052 class frigates, retaining the other eight as trainer ships for the reserves. Reflecting the reduced threat, this section would require that the last eight frigates be decommissioned in 1994. Retaining these frigates as training ships is unnecessary because of the low probability that the entire fleet of FF-102s would ever have to be reactivated. Five Year Savings: $3.8 billion.

Sec. 604. Reduction in Number of Light Divisions. The active portion of the U.S. Army consists of 14 divisions, seven of which are generally regarded as "heavy" (equipped with tanks and other armored vehicles). The seven heavy divisions are primarily intended to defend Europe from armored attack. The other seven divisions, referred to as "light" divisions, are useful against less heavily armored forces and were designed to be dispatched quickly and transported easily to trouble spots around the world. They include: one airborne division, one air assault division, one infantry division, and four light infantry divisions (LIDs). None of the LIDs was used in Desert Storm due to their limited mobility and firepower. Congress has questioned the utility of the four light infantry divisions since their creation eight years ago. This section would eliminate three of the light infantry divisions, leaving one. Five year savings: $3.8 billion.

Sec. 605. Reduce the Number of Air Force Tactical Fighter Wings to 20. The military forces proposed by the Bush Administration include 26 tactical fighter wings. There is, however, substantial sentiment that not all of these wings are still needed. U.S. tactical aircraft enjoy overwhelming superiority compared with the forces of those regional powers that appear potentially hostile to the United States. This section would reduce the tactical fighter forces in the Air Force to 20 wings, stopping short of the reduction to 20 tactical wings proposed by the Chairman of the House Committee on Armed Services in 1992. The reduction would leave the U.S. with an acceptable level of military capability in a post-Cold War world. A Congressional Budget Office analysis of several potential adversaries found that, even after the reductions in tactical aircraft proposed by the Bush Administration, the capability of the tactical aircraft in the Air Force exceeded those of the other countries by factors of 22 (North Korea), 24 (Iraq), and 56 (Cuba). Five year savings: $4.2 billion.

Sec. 606. Limitation on Expenditures for Nuclear Weapons Research, Development, and Testing Activities of the Department of Energy. DOE designs, tests, manufactures, and maintains nuclear weapons and is responsible for the safety of its production and manufacturing sites as well as the disposal of the wastes it generates. The Energy and Water Development Appropriations Act for Fiscal Year 1993 mandates a temporary moratorium on nuclear testing, intended as a precursor to a permanent ban that would start in 1996 and remain effective as long as no other country tests nuclear weapons. This section uses that legislation as a basis for long-term planning. Working toward a comprehensive test ban would probably bolster the prospects for extending and expanding the Nuclear Non-Proliferation Treaty. This 1970 treaty, due for renewal in 1995, calls for an end to all nuclear testing. Under the plan followed in this section, however, the U.S. still would be able to conduct 15 to 18 nuclear tests over the next three years. After conducting those tests, the U.S. would have other means of evaluating the reliability of warheads, including computer simulations and tests on the individual electrical and conventional explosive components of nuclear weapons. Five year savings: $1.2 billion.

Sec. 607. Strategic Defense Initiative. The Bush Administration developed a system to defend the nation against ballistic missile attacks that travel intercontinental distances. In addition to this system of national missile defenses, the Bush Administration planned to deploy several systems that would defend U.S. troops deployed overseas against attacks by ballistic missiles of less-than-intercontinental range, called theater missiles. This section would focus most funding for ballistic missile defense on theater defenses. Funding for theater defenses would be unchanged from that proposed by the Bush Administration in January 1992 and would limit funding for national missile defenses to an amount sufficient to carry out a modest program of research. This approach would retain a robust system of defenses against the more pressing threat of theater missiles and would preserve a healthy research base and an advanced technology development effort that would allow the United States to deploy national missile defenses in the event that other countries develop intercontinental ballistic missiles (ICBMs). Five year savings: $17.8 billion.

Sec. 608. Termination of the MHC(V) Coastal Mine-Hunting Ship Program. The coastal mine-hunting ship (MHC) was designed to clear Soviet mines from U.S. ports during a U.S.-Soviet conflict. By the end of 1993, the Navy had purchased 12 MHC's. The end of the Cold War greatly diminished the likelihood of needing to clear U.S. harbors. The Administration proposed purchasing a variant of the MHC, the MHC(V), but, after analyzing the design and capabilities of the MHC(V) and the lessons learned from Desert Storm, the Navy determined that the most cost-effective option was to make minor modifications in the existing MHCs to increase their endurance—the time they can remain at sea without added provisions or maintenance—rather than to purchase the MHC(V). In addition, based on its experience in Operation Desert Storm, the Navy decided to transport all of its mine-clearing ships to the theater of conflict on heavy lift ships and provide in-theater replenishment support (maintenance, loading supplies, and so on) thus increasing the MHCs' endurance and making them deployable assets for regional conflicts in developing countries. Desert Storm showed, according to the Navy, that smaller mine-clearing ships with lower magnetic and acoustic signatures, when properly supported, are as effective as larger ships such as the MHC(V). The section would cancel plans to produce one MHC(V) in 1995 and two in 1997. Five year savings: $170 million.

Sec. 609. Termination of the Kinetic Energy Anti-Satellite Attack Program. In 1989, the Department of Defense initiated a program to develop a rocket interceptor to attack Soviet satellites. The Army's Kinetic Energy AntiSatellite (ASAT) program is the latest in a series of antisatellite R&D programs that date back to the 1970s. DoD has spent more than $1.8 billion over the past decade to develop an antisatellite capability. Because of recent changes in the former Soviet Union and tight U.S. defense budgets, the ASAT is now a lower priority. This section would cancel the ASAT. Five year savings: $90 million.

Sec. 610. Required Exercise of Early Retirement Authority. The National Defense Authorization Act for Fiscal Year 1993 allows the service secretaries to permit members to retire with as few as 15 years of service. The services could use early retirement in a variety of ways, including speeding up personnel reductions. Only this policy would definitely reduce the federal outlays in both the near and the long terms. This section would require the Secretary of Defense to link the services' use of early retirement incentive to reduced personnel levels, thus ensuring long-term savings in retirement costs. It would direct DOD to grant early retirement to at least 60,000 personnel by the end of 1994. That number represents the difference between the number of people now serving with 15 to 19 years of service and the number who would be serving in the long run in the smaller base force, given current retention rates; that is, it represents one estimate of the number of excess personnel in that experience range. Because requirements under this section are designed to accelerate the drawdown rather than deepen it, the section would not reduce personnel levels in 1996 and beyond. Five year savings: $2.9 billion.

Sec. 701. Cost Savings. This section requires that any savings resulting from the enactment of this act be used to reduce the deficit.

Sec. 702. Effective Date. This section requires that the provisions in this act become effective on the date of enactment of the act.

By Mr. MACK:

S. 1164. A bill to amend section 2119 of title 18, United States Code, to authorize imposition of the death penalty if death results from a carjacking, and for other purposes; to the Committee on the Judiciary.

CARJACKING STATUTE MODIFICATIONS

• Mr. MACK. Mr. President, I rise today to introduce legislation which enhances the Federal carjacking statute passed last year by the Congress.

Every day my colleagues and I come before this body to date issues of importance to the Nation. Few issues are more critical than those involving crime. Crime affects each and every one of use—our communities, our neighborhoods, and our families.

Recently, Florida has received a lot of attention which, for those of us who live there, casts an ugly shadow upon our State. There have been several attacks against foreign tourists, and in

one incident, a German woman was killed by robbers who rear-ended her car. When she got out to check the damage, she was robbed of her purse, beaten to death and run over in front of her two children and her mother. While there appeared to be no attempt to steal the rental car, these thugs were able to commit this heinous crime by striking the back of the vehicle which allowed for this outrageous act to occur. One of the individuals who committed this vicious crime was on probation at the time.

The criminals were prosecuted under State law because the current Federal carjacking statute, as written, applies to incidences where the vehicle is taken or there is an attempt to do so. In the tragic incidence involving the German tourist, there were no attempt to steal her car, rather the car was used as the means to commit the crime. My legislation would bring criminals like these under the Federal system and give prosecutors another weapon in the fight against crime. The Federal Carjacking Improvements Act of 1993 broadens the existing Federal carjacking statute by making it a Federal crime to intentionally strike a motor vehicle with the intent to commit a criminal act. In addition, my legislation includes a Federal death penalty where death results from a crime covered under this statute. By increasing the stakes for those who commit crimes, I believe we will send a clear message that criminals will be treated like criminals.

While my bill addresses carjackings and related crimes, I believe this legislation is a necessary step as we address the many problems plaguing our criminal justice system. All of us must work together—Federal, State and local officials, law enforcement, judiciary, community leaders, clergy and all citizens—to continue to find solutions to keep criminals off our streets and out of our neighborhoods.

The legislation I am introducing is an important improvement to the existing Federal carjacking statute. I urge my colleagues to stand up for the rights of those who have been victimized by violent crime and support this important measure.●

By Mr. LIEBERMAN:

S. 1165. A bill to provide for judicial review of Nuclear Regulatory Commission decisions on petitions for enforce actions, and for other purposes.

NUCLEAR ENFORCEMENT ACCOUNTABILITY ACT OF 1993

● Mr. LIEBERMAN. Mr. President, today I am introducing a bill, which is being cosponsored by Senator BAUCUS, to improve the public's ability to participate in the nuclear regulatory process. This bill would provide citizens with a right to request the Nuclear Regulatory Commission [NRC] to address major safety issues. It also would provide for judicial review of NRC decisions not to take any action in response to such requests.

I am introducing this bill for the purpose of obtaining comments and views on this proposal in upcoming hearings that will include this issue.

More specifically, the bill would provide judicial review of petitions submitted to the Nuclear Regulatory Commission [NRC] requesting that the NRC take enforcement action against NRC licensees, such as nuclear powerplants, based on information submitted regarding significant safety problems or regulatory violations.

These petitions are commonly referred to as "section 2.206 petitions," in reference to the section of the NRC's regulations that allows any person to file a petition with the NRC requesting that the NRC take enforcement action against a NRC licensee. The enforcement action requested may include modification, suspension, or revocation of the license, or any other action that may be proper, such as the imposition of civil penalties.

The section 2.206 process is particularly important for citizens seeking to raise radiological safety concerns after a nuclear powerplant is initially licensed to operate. Once a plant is licensed and begins operation, the section 2.206 process is the primary method, other than rulemaking, by which the public is able to formally request the NRC to review potential safety problems, either generic or specific, or alleged regulatory violations. Rulemaking procedures are not well suited for the resolution of specific safety issues or allegations of regulatory violations at particular facilities. Other than requesting that the NRC institute a notice-and-comment rulemaking proceeding, however, there is no other formal means for a concerned citizen to have his or her concerns addressed.

In several important respects the section 2.206 process is incomplete. Although the NRC's regulations allow members of the public to file these petitions, and require the NRC to respond, there is nothing in the NRC's regulations that require the NRC's response to be meaningful. Additionally, the NRC's regulations do not provide any substantive standard to govern the agency's actions in response to these petitions.

In a February 3, 1993, background paper on the section 2.206 process prepared for the five Commissioners of the NRC, the NRC's general counsel stated that the NRC has "deliberately structured the section 2.206 process to avoid any implication that grant or denial of the petitions is governed by any substantive standard, and thereby successfully advanced the proposition that non-part 52 section 2.206 petition decisions are not subject to judicial review because there is no standard to apply."

As the NRC's general counsel noted in his background paper, since 1985 the NRC has successfully argued before the courts that the NRC's responses to section 2.206 petitions are not subject to judicial review. In 1985, the Supreme Court held in Heckler versus Chaney that a decision by an administrative agency to not take enforcement action is akin to a decision by a criminal prosecutor not to prosecute, and hence is presumptively unreviewable in the absence of a "meaningful standard against which to judge the agency's exercise of discretion." The NRC has successfully argued to three U.S. Courts of Appeals that there is no substantive standard to govern the NRC on section 2.206 petitions, and hence the NRC's decisions not to take enforcement action are unreviewable under the rule of Heckler versus Chaney.

The deficiencies in the section 2.206 process are especially significant for the public because, unlike most other statutes regulating environmental hazards, the Atomic Energy Act does not permit citizens to bring suit directly against a person creating a safety hazard to the public or the environment. There is no citizen suit provision in the Atomic Energy Act.

Most environmental statutes other than the Atomic Energy Act include citizen suit provisions which provide citizens with a statutory right to bring actions in Federal court against private persons or Federal agencies to compel compliance with the relevant statute, regulations, or permit conditions. These statutes also typically authorize any citizen to bring suit to initiate enforcement actions, such as the imposition of civil penalties, directly against any person regulated by the statute.

Thus, the primary means for public participation in the nuclear regulatory process—the section 2.206 process—is weaker than the primary means for public participation in the regulation of nonradiological environmental hazards.

Nuclear safety, however, is of at least equal concern to the public as other types of environmental dangers. In fact, the potential consequences to human health and the environment of a radiological release from an accident at a nuclear powerplant far exceed the potential consequences from most other types of environmental risks. There is no good reason why the regulatory system should not afford the public protections for nuclear risks that are comparable to the protections provided to the public for other types of environmental risks.

The bill I am introducing is intended to correct some of the imbalance that currently exists between the public's ability to initiate enforcement action under environmental statutes for noncompliance and the public's ability to initiate enforcement action under the Atomic Energy Act for radiological hazards. It does this in a rather modest

but nonetheless significant manner, by providing for judicial review of NRC decisions to not take enforcement action on section 2.206 petitions.

If this proposal were enacted into law, it still would be more difficult for citizens to initiate enforcement actions against persons regulated under the Atomic Energy Act than against persons regulated under other environmental statutes. Citizens would have to meet a higher threshold for the initiation of enforcement actions than under other regulatory statutes, and citizens still would not be able to initiate suit directly against NRC licensees.

Nonetheless, it would be a significant improvement over the current situation to provide for a statutory right to petition the NRC to take enforcement action, and to provide for judicial review of NRC responses to those petitions.

Judicial review of agency actions is a well-established principle of administrative law. Actions by regulatory agencies that affect the public health and safety—or inaction that might affect public health and safety—should be subject to judicial review. As Justice Thurgood Marshall observed in dissent in Heckler versus Chaney:

[a] request that a nuclear plant be operated safety or that protection be provided against unsafe drugs is quite different from a request that an individual be put in jail or his property confiscated as punishment for past violations of the criminal law. Unlike traditional exercises of prosecutorial discretion, "the decision to enforce—or not to enforce—may itself result in significant burdens on a * * * statutory beneficiary."

The standard in the bill for information that a member of the public must provide in order for the Commission to consider enforcement action—material evidence reasonably indicating that there is either a significant regulatory or statutory violation or a substantial safety hazard—is already a standard that the Congress and the NRC have determined is an appropriate threshold for the consideration of enforcement action.

Section 206 of the Energy Reorganization Act and the Commission's regulations require NRC licensees or persons supplying components to NRC licensees to notify the NRC of information obtained that reasonably indicates that a NRC-licensed facility: First, fails to comply with the Atomic Energy Act or the Commission's regulations relating to substantial safety hazards; or second, contains a defect that could create a substantial safety hazard. The Commission already has procedures in place to evaluate this type of information and take appropriate enforcement action.

I encourage comment on whether the proposed standard in this bill for the initiation of a section 2.206 proceeding is the appropriate standard. I would be particularly interested in comments on whether this standard strikes the appropriate balance between, on the one hand, ensuring that the NRC considers and responds to significant safety issues raised by members of the public and, on the other hand, avoiding unnecessary proceedings and litigation over issues that are not significant.

In sum, Mr. President, this bill would improve the public's ability to raise safety issues at operating nuclear powerplants. I would require the NRC to respond to significant safety issues raised by members of the public. It also would provide judicial review of those responses.

It is my intent for the Subcommittee on Clean Air and Nuclear Regulation to consider this bill along with the NRC authorization bill and the NRC legislative proposals which are being introduced by request today. I encourage all interested persons to provide their comments to the subcommittee in the upcoming weeks.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Nuclear Enforcement Accountability Act of 1993."

SEC. 2. ENFORCEMENT PETITIONS AND JUDICIAL REVIEW.

Section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT PETITIONS.—

"(1) IN GENERAL.—Any person may petition the Nuclear Regulatory Commission to institute a proceeding to modify, suspend, or revoke a license, or for such other action as may be proper.

"(2) STANDARDS FOR GRANTING.—The Commission shall grant any request under paragraph (1) if the petitioner demonstrates material evidence reasonably indicating that—

(i) the holder of the license with respect to which a request has been made under paragraph (1) is in significant noncompliance with the terms of the license, this chapter, or the Commission's regulations, or

(ii) the activities of the licensee present a substantial hazard to the public health and safety or common defense and security.

"(3) JUDICIAL REVIEW.—Any Commission order denying a request under this subsection shall be subject to judicial review in accordance with chapter 158 of title 28, United States Code, and chapter 7 of title 5, United States Code."●

By Mr. BAUCUS (for himself, Mr. LIEBERMAN, and Mr. SIMPSON) (by request):

S. 1166. A bill to amend the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954 to enhance the safety and security of nuclear power facilities, and for other purposes; to the Committee on Environment and Public Works.

OMNIBUS NUCLEAR POWER SAFETY AND SECURITY ENHANCEMENT ACT OF 1993

Mr. BAUCUS. Mr. President, by request of the Nuclear Regulatory Commission [NRC], today, I am introducing, along with Senators LIEBERMAN and SIMPSON, the NRC's proposed authorization bill for fiscal years 1994 and 1995 and the NRC's proposed legislative package for the 103d Congress.

The introduction of these bills is the first step in the renewal by the Committee on Environment and Public Works of the authorization process for the NRC.

The Subcommittee on Clean Air and Nuclear Regulation of the Committee on Environment and Public Works will conduct a hearing on these proposals next week. I look forward to reviewing the testimony received at this hearing on these proposals.

Mr. President, I ask unanimous consent that a copy of the NRC authorization bill and the NRC's legislative proposals and the NRC's analysis and explanation of its authorization bill and its legislative proposals be printed at the appropriate place in the RECORD.

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Nuclear Power Safety and Security Enhancement Act of 1993."

SEC. 2. NOTIFICATION REQUIREMENTS.

Section 206 of the Energy Reorganization Act of 1974 is amended to read as follows:

"NONCOMPLIANCE

"SEC. 206. (a) Any person constructing owning, operating, or supplying a component of any facility or activity which is licensed or otherwise regulated by the Commission pursuant to the Atomic Energy Act of 1954 (including any facility leased by the United States Enrichment Corporation), or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or a basic component supplied to such facility or activity—

"(1) contains a defect, or

"(2) fails to comply with the Atomic Energy Act of 1954 or any applicable rule, regulation, order, or license of the Commission,

shall immediately notify the Commission of such defect or failure to comply if such defect or failure to comply could create a substantial safety hazard as defined by the regulations promulgated by the Commission, unless such person has actual knowledge that the Commission has been informed in writing of such defect or failure to comply.

"(b) The Commission may issue such regulations and orders as it deems necessary to ensure compliance with this section, including regulations and orders requiring any person subject to this section to devise and implement procedures to identify, evaluate, and report defects and failures to comply subject to the notification requirements of subsection (a).

"(c) Any person who fails to provide a notification required by subsection (a), or who violates any regulation or order issued under subsection (b), shall be subject to a civil penalty in the same manner and amount as provided for violations subject to a civil penalty under section 234 of the Atomic Energy Act of 1954; except that an individual who is subject to the requirements of this section solely because of employment by a person subject to those requirements shall only be assessed a civil penalty for failure to provide

notice pursuant to subsection (a) if such individual has actual knowledge of the reporting requirement imposed by subsection (a) and of a defect as provided in subsection (a)(1) or of a failure of compliance as provided in subsection (a)(2).

"(d) The requirements of this section shall be preeminently posted on the business premises of any person who is required to notify the commission of a defect or failure to comply under subsection (a).

"(e) The Commission may conduct such reasonable inspections, investigations, and other enforcement activities as it deems necessary to ensure compliance with the provisions of this section and with any regulations and orders issued thereunder.

"(f) For purposes of this section, the term 'person' has the same meaning as in subsection 11 s. of the Atomic Energy Act of 1954, except that (A) it also includes the Department of Energy with respect to facilities of the Department regulated by the Commission and with respect to any item provided by the Department as a component to a licensee, and (B) it does not include an individual unless he or she is (i) a sole proprietor or partner of a business that constructs, owns, operators, or supplies a component covered by subsection (a) of this section, or (ii) a director or responsible officer employed by a person subject to that subsection.

"(g) This section shall apply to the United States Enrichment Corporation and facilities leased by the Corporation, and to its directors and officers, to the same extent as any other person subject to this section."

SEC. 3. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF RULES, REGULATIONS, ORDERS OR LICENSING REQUIREMENTS.

(a) The heading of section 234 of the Atomic Energy Act of 1954 is amended to read as follows: "CIVIL MONETARY PENALTIES FOR VIOLATIONS OF RULES, REGULATIONS, ORDERS, OR LICENSING REQUIREMENTS."

(b) The first sentence of subsection a. of section 234 of the Atomic Energy Act of 1954 is amended to read as follows:

"a. Any person who—

"(1) violates (A) any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109, or any rule, regulation, or order issued thereunder, (B) the certification provisions of section 1701, or any rule or regulation issued thereunder, (C) any term, condition, or limitation of any license or certification issued under any of these sections, or (D) any rule, regulation, or order issued under section 161 b., 161 i., or 161 o., or

"(2) commits any violation for which a license may be revoked under section 186,

shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $100,000 for each such violation."

SEC. 4. ADVISORY COMMITTEE ON REACTOR SAFEGUARDS.

Section 29 of the Atomic Energy Act of 1954 is amended by deleting the last two sentences of that section.

SEC. 5. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.

Section 161 k. of the Atomic Energy Act is amended—

(1) by inserting "and licensees (including employees of contractors of licensees)" after "(at any tier)",

(2) by striking "owned by or contracted to the United States or being transported to or from such facilities" and inserting "owned by or contracted to the United States or licensed by the Commission, or being transported to or from such facilities,",

(3) by inserting "or a licensee of the Commission" after "or a contractor of the Department of Energy or Nuclear Regulatory Commission", and

(4) by inserting "and the Commission" after "The Secretary".

SEC. 6. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 is amended by adding after "custody of the Commission" the words "or subject to its licensing authority under this Act or any other Act."

SEC. 7. SABOTAGE OR PRODUCTION, UTILIZATION, OR WASTE STORAGE FACILITIES UNDER CONSTRUCTION.

Section 236 a. of the Atomic Energy Act of 1954 is amended to read as follows:

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act;

"(3) any production, utilization, or waste storage facility subject to licensing under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility; or

"(4) any nuclear fuel for a utilization facility licensed under this Act, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years or both."

SEC. 8. ADMINISTRATIVE SEARCH WARRANTS.

Section 161c. of the Atomic Energy Act of 1954 is amended to read as follows:

"(c)(1) make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this Act, or in the administration or enforcement of this Act, or any regulations or orders issued thereunder. For such purposes the Commission is authorized—

"(A) to administer oaths and affirmations;

"(B) by subpoena, to require any person to appear and testify or appear and produce documents, or both, at any designated place;

"(C) to conduct searches without a warrant of the premises of applicants, licensees, and other persons subject to section 206 of the Energy Reorganization Act of 1974; and

"(D) by judicially-approved, administrative search warrant, to enter at reasonable times premises under the control of any person not covered by subparagraph (C) who is subject to the Commission's jurisdiction.

"(2) Before a warrant is issued pursuant to subparagraph (D) of paragraph (1), the Commission must establish that it has a reasonable suspicion that a violation of a Federal statute or a Commission regulatory requirement has been or will be committed. A search pursuant to such a warrant shall be effected only for purposes directly related to the basis for the warrant, and each such search shall be commenced and completed with reasonable promptness.

"(3) Witnesses subpoenaed pursuant to subparagraph (B) of paragraph (1) shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States."

SEC 9. AMENDMENTS TO TABLE OF CONTENTS.

The Table of Contents of the Atomic Energy Act of 1954 is amended by striking "SEC. 234. Civil Monetary Penalties for Violations of Licensing Requirements" and inserting in lieu thereof "SEC. 234. "Civil Monetary Penalties for Violations of Rules, Regulations, Orders, or Licensing Requirements".

OMNIBUS NUCLEAR POWER SAFETY AND SECURITY ENHANCEMENT ACT OF 1993—SECTION-BY-SECTION ANALYSIS

Section 2—Notification Requirements

This section amends section 206 of the Energy Reorganization Act of 1974. Subsection (a) of the revised statute provides that persons constructing, owning, operating, or supplying the components of nuclear power plants and other facilities and activities regulated by the Nuclear Regulatory Commission are directly responsible for notifying the Commission when a basic component supplied to such a facility or activity contains a defect, or fails to comply with the Atomic Energy Act of 1954 or any rule, regulation, order, or license issued by the Commission, if such defect or failure to comply could create a substantial safety hazard.

Subsection (b) clarifies the Commission's authority to implement section 206 by regulation or order.

Subsection (c) makes clear that failure to provide the notification required by section 206(a), and violations of NRC regulations or orders issued under section 206, may be grounds for a civil penalty. Subsection (c) also makes clear that all the provisions of section 234 of the Atomic Energy Act of 1954 apply to the imposition of civil penalties under section 206.

Subsection (d) requires that the provisions of section 206 be posted on the premises of any person who is required to notify the Commission of a defect or failure to comply under subsection (a), not just on the premises of persons licensed or regulated under the Atomic Energy Act.

Subsection (e) makes clear that the Commission may conduct inspections, investigation, and other enforcement activities to ensure compliance with its regulations and orders issued pursuant to section 206, as well as with the statute itself.

Subsection (f) provides that under section 206, "person" has the same broad meaning as "person" under section 11 s. of the Atomic Energy Act of 1954, as amended, except that it also includes the Department of Energy, to the extent its facilities, materials, and activities are regulated by the Commission and with respect to items provided by the Department as a component to a licensee. Individuals are excluded from the term "person", unless they are the sole proprietor or partner of a business that conducts activities covered by section 206 or are directors or responsible officers of a person covered by section 206.

Subsection (g) makes the provisions of section 206 applicable to the United States Enrichment Corporation and facilities leased by the Corporation, and its officers and directors, to the same extent as section 206 is applicable to other persons.

Section 3—Civil Monetary Penalties for Violations of Rules, Regulations, Orders, or Licensing Requirements

The purpose of this amendment is to make clear that the Commission is authorized to impose civil monetary penalties upon any person for violating any NRC rule, regulation, or order issued under section 161b., 161i., or 161o. of the Act. Express authority for imposition of criminal penalties for such violations is already provided by section 223 of the Act. This amendment also clarifies the Commission's authority to impose a civil penalty on any person who violates the gaseous diffusion uranium enrichment facility

certification provisions of section 1701 or any rule, regulation, or certification issued under that section.

Section 4—Advisory Committee on Reactor Safeguards

This amendment to Section 29 of the Atomic Energy Act would eliminate the requirement that the Advisory Committee on Reactor Safeguards prepare and submit to Congress each year a study of reactor safety research.

Section 5—Carrying of Firearms by Licensee Employees

The purpose of this amendment is to permit guards at those NRC-licensed facilities where there are strategic quantities of special nuclear materials present and guards transporting such materials to use deadly force, where necessary to prevent theft of materials capable of being used for nuclear explosives. Guards at DOE facilities and DOE guards transporting special nuclear materials already possess this authority. The amendment would provide identical authority to guards at a limited number of NRC-licensed facilities.

The amendment would also shield against prosecution by state authorities for discharge of firearms in the performance of official duties. This should remove from licensee guards any reluctance to use their weapons in defending facilities or transports containing strategic quantities of special nuclear materials against attack.

The facilities to which the authority provided by the amendment would be applied immediately are all engaged in the manufacture of fuel for naval nuclear propulsion. In the future, the amendment would also be applied to licensed facilities handling similar quantities of special nuclear material, such as enrichment or reprocessing plants.

Section 6—Unauthorized Introduction of Dangerous Weapons

The purpose of this amendment is to authorize the Nuclear Regulatory Commission to promulgate regulations that would prohibit a person who has not obtained prior authorization from carrying, transporting, or otherwise introducing or causing to be introduced any weapon, explosive, or other dangerous instrumentality into any facility, installation, or real property regulated by the Commission. Violation of the regulation would constitute a Federal crime punishable by a $5000 fine, imprisonment for not more than one year, or both.

The Commission's implementing regulations would determine the scope of the prohibition. It is the Commission's intent to limit the applicability of the implementing regulations to licensed nuclear facilities and materials that must be protected against theft or radiological sabotage.

Section 7—Sabotage of Production, Utilization, or Waste Facilities Under Construction

The purpose of this amendment is to extend Federal criminal sanctions to sabotage or attempted sabotage of a production, utilization, or waste storage facility during its construction. With respect to construction, only acts that potentially affect the public health and safety during operation of the facility will be subject to Federal criminal sanctions.

Section 8—Administrative Search Warrants

The purpose of this amendment is to allow the Nuclear Regulatory Commission to inspect the facility of a party that is not part of the pervasively regulated nuclear industry, such as the manufacturer of off-the-shelf components used in a licensed facility, when no other authority exists which would permit the NRC to conduct an effective inspection or investigation of that person's premises. Under current authority, it appears that information could be obtained from such persons only if they consent to the inspection or by issuance of a subpoena, but this requires giving the firm prior notice, presenting possibilities that evidence will be destroyed prior to the inspection. Therefore this provision would enhance NRC's efforts to protect the public health and safety because information could be obtained which otherwise might be destroyed if prior warning were to be required.

Section 9—Amendments to Table of Contents

This section makes necessary conforming changes to the Table of Contents of the Atomic Energy Act.

ADDITIONAL COSPONSORS

S. 103

At the request of Mr. NICKLES, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 103, a bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress.

S. 187

At the request of Mr. BURNS, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 187, a bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 412

At the request of Mr. EXON, the names of the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Tennessee [Mr. MATHEWS] were added as cosponsors of S. 412, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

S. 456

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 456, a bill to establish school-to-work transition programs for all students, and for other purposes.

S. 636

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 636, a bill to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

S. 687

At the request of Mr. GORTON, the names of the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. SMITH], the Senator from Utah [Mr. BENNETT], the Senator from Georgia [Mr. COVERDELL], the Senator from New Hampshire [Mr. GREGG], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 716

At the request of Mr. BOND, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 716, a bill to require that all Federal lithographic printing be performed using ink made from vegetable oil, and for other purposes.

S. 757

At the request of Mr. ROCKEFELLER, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 757, a bill to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 769

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 769, a bill to prohibit any increase in the tax on the sale of certain aviation fuel, and to prohibit any tax on such fuel or on the energy content of petroleum or petroleum products used in the production of such fuel.

S. 770

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 770, a bill to amend the Federal Aviation Act of 1958 to authorize the Secretary of Transportation to prevent United States air carriers from engaging in predatory pricing.

S. 881

At the request of Mr. DODD, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes.

S. 1043

At the request of Mr. GLENN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1043, a bill to extend until January 1, 1998, the existing suspension of duty on certain bicycle parts, and for other purposes.

S. 1098

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1098, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 1141

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1141, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans' Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1145

At the request of Mr. JEFFORDS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1145, a bill to prohibit the use of outer space for advertising purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. BROWN, the names of the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Florida [Mr. MACK], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 34, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE JOINT RESOLUTION 89

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 89, a bill to designate October 1993, as "Polish-American Heritage Month".

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 99

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 99, a joint resolution designating September 9, 1993, and April 21, 1994, each as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 106

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. THURMOND], the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. COATS], the Senator from Delaware [Mr. BIDEN], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 106, a joint resolution designating July 2, 1993 and July 2, 1994 as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. SIMON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution urging the President to redirect United States foreign assistance policies and spending priorities toward promoting sustainable development, which reduces global hunger and poverty, protects the environment, and promotes democracy.

SENATE RESOLUTION 94

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. LEAHY], the Senator from Wisconsin [Mr. KOHL], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. FORD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Resolution 94, a resolution expressing the Sense of the Senate with respect to the tragic humanitarian crisis in Sudan.

AMENDMENT NO. 505

At the request of Mr. JEFFORDS the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Amendment No. 505 proposed to S. 1134, an original bill to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

AMENDMENT NO. 507

At the request of Mr. BINGAMAN his name was added as a cosponsor of Amendment No. 507 proposed to S. 1134, an original bill to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

AMENDMENT NO. 508

At the request of Mr. FAIRCLOTH his name was added as a cosponsor of Amendment No. 508 proposed to S. 1134, an original bill to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

At the request of Mr. NICKLES the names of the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Alaska [Mr. STEVENS], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Amendment No. 508 proposed to S. 1134, supra.

AMENDMENTS SUBMITTED

BUDGET RECONCILIATION

SASSER (AND OTHERS) AMENDMENT NO. 510

Mr. SASSER (for himself, Mr. MITCHELL, and Mr. DODD) proposed an amendment to the bill (S. 1134) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, as follows:

At the end of the bill insert the following:

TITLE XIV—ENFORCEMENT

Part C—Budget Control

SEC. 14201. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This part may be cited as the "Budget Control Act of 1993".

(b) PURPOSE.—The Congress declares that it is essential to create a mechanism to monitor the total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address modification of direct spending.

SEC. 14202. ESTABLISHMENT OF BUDGET CONTROL.

(a) AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget Act of 1974 is amended—

(1) after the table of contents title heading for Title III, but before the table of contents item for section 300, by inserting the following: "PART A—CONGRESSIONAL BUDGET"; and

(2) at the end of the table of contents items for title III, by inserting the following new items:

"PART B—BUDGET CONTROL

"Sec. 320. Timetable.
"Sec. 321. Direct spending targets.
"Sec. 322. Review of direct spending and receipts.
"Sec. 323. Presidential proposals.
"Sec. 324. Required response by Congress.
"Sec. 325. Effective dates.".

(b) AMENDMENTS TO TITLE III OF THE CONGRESSIONAL BUDGET ACT.—Title III of the Congressional Budget Act of 1974 is amended as follows:

(1) after the title heading for Title III, but before the heading of section 300, by inserting the following: "Part A—Congressional Budget; and

(2) at the end of the title, by inserting the following new part:

"Part B—Budget Control

"TIMETABLE

"SEC. 320. TIMETABLE.—The timetable with respect to the budget control process for any fiscal year is as follows:

"On or Before:	Action To Be Completed:
"5 days before the President's budget submission.	Congressional Budget Office submits a review of direct spending and receipts.
"The first Monday in February.	The President submits a review of direct spending and receipts, a proposed budget control resolution (if necessary), and proposed budget control legislation (if necessary).
"February 17	The Senate Majority Leader (or the Leader's designee) introduces the budget control resolution (if necessary).
"February 27	If the Majority Leader (or the Leader's designee) fails to introduce the budget control resolution, the Minority Leader may do so.
"March 20	The Majority Leader (or the Leader's designee) introduces the President's legislative proposals.
"March 25	If the Majority Leader (or the Leader's designee) fails to introduce the President's legislative proposals, the Minority Leader may do so.

"On or Before:	Action To Be Completed:
"April 1	The Budget Committee reports a concurrent resolution on the budget that includes a separate title addressing the overage.
"April 2	If the Budget Committee fails to report such a concurrent resolution on the budget, it is discharged of the budget control resolution.
"May 1	The Senate votes on final passage of the budget control resolution (if discharged in April).
"June 1	If the Senate has failed to adopt a budget resolution addressing the overage, the Budget Committee is discharged of the budget control resolution (if it had not already been discharged).
"July 1	The Senate votes on final passage of the budget control resolution (if discharged in June).

"DIRECT SPENDING TARGETS

"SEC. 321. DEFINITIONS.—As used in this title—

"(1) the term 'budget control resolution' means a concurrent resolution introduced pursuant to section 324(a)(1) or (b)(1);

"(2) the term 'direct spending' shall have the same meaning as under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 and excludes the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;

"(3) the term 'direct spending target' means—

"(A) with respect to fiscal year 1994, $672,413,000,000;

"(B) with respect to fiscal year 1995, $727,239,000,000;

"(C) with respect to fiscal year 1996, $761,812,000,000;

"(D) with respect to fiscal year 1997, $811,824,000,000;

as adjusted by the President in strict conformance with the requirements of section 322(b)(1); and

"(4) the term 'overage' means the amount (if any) by which the applicable direct spending target is exceeded by—

"(A) actual outlays for direct spending in the immediately past fiscal year; or

"(B) projected outlays for direct spending for either the current or budget year.

"REVIEW OF DIRECT SPENDING AND RECEIPTS

"SEC. 322. (a) DUTY TO REPORT.—An annual review of direct spending and receipts shall be performed and included—

"(1) by the Director of the Congressional Budget Office as part of each sequestration preview report under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(2) by the President as part of each budget submitted under section 1105(a) of title 31, United States Code.

"(b) CONTENTS OF REPORT.—The review required by this section shall include the following—

"(1) ADJUSTMENTS TO THE DIRECT SPENDING TARGETS.—The Director of the Congressional Budget Office shall recommend for the President's consideration, and the President shall make, adjustments of the direct spending targets for all fiscal years not yet completed to reflect the following:

"(A) INCREASES IN BENEFICIARIES.—The adjustment shall reflect increases (if any) in actual or projected numbers of beneficiaries under direct spending programs for which the number of beneficiaries is a variable in determining costs.

"(B) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustment shall reflect changes in concepts and definitions produced—

"(i) by the amendments made by this Act or subsequently-enacted legislation, or

"(ii) by the President after consultation among the Office of Management and Budget, the Committees on the Budget, Government Operations, and Governmental Affairs of the Senate and the House of Representatives, and the Congressional Budget Office.

"(C) CHANGES IN INFLATION.—The adjustment shall reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103-48.

"(D) EMERGENCIES.—If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the adjustment shall equal the amounts of new budget authority, outlays, and receipts in all fiscal years through 1997 resulting from that provision.

"(E) NET INTEREST AND DEPOSIT INSURANCE.—The adjustment shall reflect changes in the level of funding for net interest and full funding of, and continuation of, the deposit insurance guarantee commitment in effect on November 5, 1990.

"(F) PAY-AS-YOU-GO LEGISLATION.—

"(i) The adjustment shall equal the net change in receipts caused by the enactment after the date of enactment of this Act of legislation changing receipts (except for legislation enacted pursuant to section 324), as calculated by summing all applicable estimates for the applicable fiscal years of receipts legislation transmitted under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(ii) If Congress enacts pay-as-you-go legislation that does not increase the deficit in the first fiscal year of its effectiveness or for the total for the period of 5 fiscal years that includes the first fiscal year of its effectiveness and the 4 subsequent fiscal years, then the adjustment shall reflect the changes made by that legislation, to the extent that those changes are not reflected by the adjustment made by clause (i).

"(G) ADJUSTMENTS TO REFLECT CONGRESSIONAL DECISIONS.—If legislation is enacted pursuant to section 324, the adjustment shall—

"(i) increase the target for any fiscal year by the amount stated for that year in that legislation; and

"(ii) adjust the target for all fiscal years through 1997 to reflect the amount of reductions in direct spending enacted in that legislation used to offset the overage.

"(2) SUPPORTING JUSTIFICATIONS.—The report shall include information supporting the adjustment of direct spending targets pursuant to paragraph (1).

"(3) REVIEW OF DIRECT SPENDING AND RECEIPTS LEVELS.—The report shall include—

"(A) information on total outlays for direct spending programs, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years;

"(B) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this Act; and

"(C) an analysis of the variance between the adjusted direct spending targets and the amount of direct spending reported pursuant to subparagraph (A), indicating growth by program.

"(4) The President's report under this subsection shall include an explanation of significant differences between items in that report and the report of the Director of the Congressional Budget Office.

"PRESIDENTIAL PROPOSALS

"SEC. 323. (a) TRIGGER.—If the information submitted by the President under section 322 indicates that an overage exists that exceeds 1 percent of the applicable direct spending target, then the President shall submit the materials required by this section.

"(b) PROPOSED BUDGET CONTROL RESOLUTION.—If required under subsection (a), as part of the budget submitted under section 1105(a) of title 31, United States Code, the President shall include—

"(1) the President's recommendations for addressing the overage, which many consist of any of the following:

"(A) proposed legislative changes to reduce direct spending outlays, increase revenues, or both, in order to recoup or eliminate the overage;

"(B) proposed legislative changes to reduce direct spending outlays, increase revenues, or both, in order to recoup or eliminate part of the overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both; or

"(C) a proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted;

"(2) if the President recommends reductions consistent with subsection (b)(1)(A) or (B), the President shall include in the budget the text of a special budget control resolution implementing the President's recommendations through directives instructing the appropriate committees of the Senate and House of Representatives to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts;

"(3) if the President pursuant to subsection (b)(1)(C) recommends no reductions, the President shall include in the budget the text of a bill or joint resolution changing the appropriate direct spending targets to reflect that recommendation of no reductions; and

"(c) PROPOSED BUDGET CONTROL LEGISLATION.—If the President recommends reductions pursuant to subsection (b)(1)(A) or (B), then on or before March 15, the President shall transmit to the Senate and the House of Representatives the text of legislation implementing the President's recommendations.

"(d) LIMITATIONS ON RECOMMENDATIONS.—

(1) JUDICIAL BRANCH.—The recommendations under this section may not include alterations in funding for the judicial branch.

(2) MEANS-TESTED PROGRAMS.—In making recommendations under this section, the President should seriously consider all other alternatives before proposing reductions in means-tested programs.

"REQUIRED RESPONSE BY CONGRESS

"SEC. 324. (a) PROCEDURES IN THE SENATE.—

"(1) BUDGET CONTROL RESOLUTION MUST BE INTRODUCED IN THE SENATE.—On or before February 17 (or, if the Senate is not in session on that date, on or before the next day on which the Senate is in session), the Majority Leader (or the Leader's designee) shall

introduce (by request) the budget control resolution text required by section 323(b) as a concurrent resolution in the Senate without substantive revision. If the Majority Leader (or the Leader's designee) fails to introduce a resolution under this paragraph on or before February 17 (or, if the Senate is not in session on or before February 17, on or before the next day on which the Senate is in session), then the Minority Leader may, on or before February 27 (or, if the Senate is not in session on February 27, on or before the next day on which the Senate is in session) introduce (by request) the resolution in the same fashion as required of the Majority Leader (or the Leader's designee) under this paragraph. The Presiding Officer shall refer a resolution introduced pursuant to this paragraph to the Committee on the Budget.

"(2) CONCURRENT RESOLUTION ON THE BUDGET MAY ADDRESS OVERAGE.—In any year in which the Presiding Officer refers a budget control resolution to the Committee on the Budget, that Committee may report a concurrent resolution on the budget that includes in it a separate title that contains directives to the appropriate committees of the Senate and House of Representatives to determine and recommend changes in laws within their jurisdictions to reduce direct spending outlays or increase revenues by specified amounts, which in total equal or exceed the reductions recommended by the President, up to the amount of the overage. If the separate title recommends that no legislative changes be made to recoup or eliminate an overage, then the Committee on the Budget shall include in the title a statement to that effect. If the separate title proposes to recoup or eliminate less than the entire overage for the prior, current, and budget years, then the title shall include directions to the Committee on Governmental Affairs and the Committee on the Budget (sequentially) to report legislation increasing the direct spending targets for each applicable year by the full amount of the overage not recouped or eliminated. Notwithstanding any other rule of the Senate, a reconciliation bill pursuant to section 310 may include language reported by the Committee on Governmental Affairs and the Committee on the Budget in strict compliance with this paragraph, and the Senate may consider germane amendments thereto.

"(3) REPORT OF THE CONCURRENT RESOLUTION ON THE BUDGET OR DISCHARGE OF BUDGET CONTROL RESOLUTION.—If, in any year in which the Presiding Officer has referred a budget control resolution to the Committee on the Budget, that Committee has not reported a concurrent resolution on the budget pursuant to paragraph (2) on or before April 1, (or, if the Senate is not in session on April 1, on or before the next day on which the Senate is in session), then on April 2, (or, if the Senate is not in session on April 1, on the day after the next day on which the Senate is in session), that Committee shall be discharged of the budget control resolution, which shall be placed on the calendar.

"(4) THE SENATE MUST ADDRESS THE OVERAGE.—In any year in which the Committee on the Budget has been discharged pursuant to paragraph (3) of a budget control resolution, the Majority Leader (or the Leader's designee) shall move to proceed to consider that resolution before May 1, That motion shall be privileged. The Senate shall vote on final passage of that resolution (or the resolution introduced under subsection (b)(1) if available in the Senate) before May 1. In any year in which the Committee on the Budget has been discharged of a budget control resolution, if the Senate has not yet voted on passage of that resolution (or the resolution introduced under subsection (b)(1), if available in the Senate), the Presiding Officer shall rule out of order a motion to adjourn or recess to a time after April 30.

"(5) FLOOR CONSIDERATION OF THE OVERAGE IN THE SENATE.—

"(A) CONCURRENT RESOLUTION ON THE BUDGET.—The provisions of section 305(b) shall govern consideration of a concurrent resolution on the budget containing a separate title pursuant to paragraph (2).

"(B) BUDGET CONTROL RESOLUTION.—

"(i) Debate in the Senate on any budget control resolution, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

"(ii) Debate in the Senate on any amendment to a budget control resolution, any amendment to an amendment, debatable motion, or debatable appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover (or appellant) and the manager of the resolution, except that in the event the manager of the resolution favors any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the Minority Leader or that Leader's designee. No amendment that is not germane to the provisions of such resolution shall be received. Any one of the Majority Leader, the Minority Leader, or their designees may, from the time under that Senator's control on the resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(iii) A motion further to limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. The provisions of clause (ii) shall govern debate on any such motion to recommit.

"(iv) Notwithstanding any other rule, an amendment or series of amendments to the resolution shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolutions so as to make such concurrent resolution mathematically consistently or so as to maintain such consistency.

"(6) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE.—It shall not be in order in the Senate to consider a conference report on a concurrent resolution on the budget or a budget control resolution unless that conference report fully addresses the entirety of any overage indicated in the applicable report of the President under section 322 through directives requiring spending reductions, revenue increases, or changes in the direct spending targets.

"(7) FLOOR CONSIDERATION OF CONFERENCE REPORTS (OR MESSAGE BETWEEN HOUSES) ADDRESSING THE OVERAGE IN THE SENATE.—

"(A) CONCURRENT RESOLUTION ON THE BUDGET.—The provisions of section 305(c) shall govern consideration of a conference report (or message between Houses) on a concurrent resolution on the budget containing a separate title pursuant to paragraph (2).

"(B) BUDGET CONTROL RESOLUTION.—

"(i) The Majority Leader (or the Leader's designee) may move to proceed to the consideration of the conference report (or a message between Houses) on any budget control resolution even though the Senate has disagreed to a previous motion to the same effect.

"(ii) During the consideration in the Senate of the conference report (or a message between Houses) on any budget control resolution, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 5 hours, to be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees. Debate on any amendment, debatable motion, or debatable appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover (or appellant) and the manager of the conference report (or message between Houses), except that in the event the manager of the conference report (or message between Houses) favors any such amendment, motion, or appeal, the Minority Leader or that Leader's designee shall control the time in opposition thereto.

"(iii) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or that Leader's designee. Should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report, except that in the event the manager of the conference report favors any such motion, the time in opposition thereto shall be controlled by the Minority Leader or that Leader's designee. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report, except that in the event the manager of the conference report favors any such amendment, the Minority Leader or that Leader's designee shall control the time in opposition thereto.

"(iv) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report (or message between Houses) and the Minority Leader or that Leader's designee, except that in the event the manager of the conference report (or message between Houses) favors any such amendment, the Minority Leader or that Leader's designee shall control the time in opposition thereto. No amendment that is not germane to the provisions of such amendments shall be received

"(8) DISCHARGE OF BUDGET CONTROL RESOLUTION UPON FAILURE TO ADOPT AN APPROPRIATE CONCURRENT RESOLUTION ON THE BUDGET.—If, in any year in which the Presiding Officer has referred a budget control resolution to the Committee on the Budget, the Senate has not passed a concurrent resolution on the budget meeting the requirements of paragraph (2) on or before June 1 (or, if the Senate is not in session on June 1, on or before the next day on which the Senate is in session), then on June 2 (or, if the Senate is not in session on June 1, on the day after the next day on which the Senate is in session), the Committee on the Budget shall be discharged of the budget control resolution, which shall be placed on the calendar, if that Committee had not already been discharged

of the budget control resolution pursuant to paragraph (3).

"(9) IF THE SENATE FAILS TO ADOPT AN APPROPRIATE CONCURRENT RESOLUTION ON THE BUDGET, THE SENATE MUST ADDRESS THE BUDGET CONTROL RESOLUTION.—In any year in which the Committee on the Budget has been discharged pursuant to paragraph (8) of a budget control resolution, the Majority Leader (or the Leader's designee) shall move to proceed to consider the resolution before July 1. That motion shall be privileged. The Senate shall vote on final passage of that resolution (or the resolution introduced under subsection (b)(1), if available in the Senate) before July 1. In any year in which the Committee on the Budget has been discharged of a budget control resolution, if the Senate has not yet voted on passage of that resolution (or the resolution introduced under subsection (b)(1), if available in the Senate), the Presiding Officer shall rule out of order a motion to adjourn or recess to a time after June 30.

"(10) PRESIDENTIAL LEGISLATIVE PROPOSALS.—On or before March 20 (or, if the Senate is not in session on March 20, on or before the next day on which the Senate is in session), the Majority Leader (or the Leader's designee) shall introduce (by request) as a bill or as several bills the legislative proposals submitted by the President pursuant to section 323(c) without substantive revision, except that the Majority Leader (or the Leader's designee) shall divide the legislative proposals so as to ensure, as much as possible, that each bill introduced under this paragraph shall contain subject matter predominantly within one committee's jurisdiction. If the Majority Leader (or the Leader's designee) fails to introduce legislation under this paragraph on or before March 20 (or, if the Senate is not in session on March 20, on or before the next day on which the Senate is in session), then the Minority Leader may, on or before March 25 (or, if the Senate is not in session on March 25, on or before the next day on which the Senate is in session) introduce (by request) the President's legislative proposals in the same fashion as required of the Majority Leader (or the Leader's designee) under this paragraph.

"(b) PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—

"(1) RESOLUTION TO BE INTRODUCED IN THE HOUSE.—Within 10 days after the President's budget is submitted, the Chairman of the Committee on the Budget of the House of Representatives shall introduce the budget control resolution text required by section 323(b) as a concurrent resolution in the House of Representatives without substantive revision. If the Chairman fails to do so, after the tenth day, any Member of the House of Representatives may introduce the resolution. A resolution introduced under this paragraph shall be referred to the Committee on the Budget.

"(2) REQUIREMENT FOR BUDGET CONTROL RESOLUTION.—Whenever the President submits a budget control resolution under section 323(b), the Committee on the Budget of the House of Representatives shall report, on or before April 15, a concurrent resolution on the budget that includes in it a separate title that meets the following requirements—

"(A) CONTENTS OF SEPARATE TITLE.—The separate title of the concurrent resolution on the budget shall contain directives to the appropriate committees of the Senate and House of Representatives to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage). If this separate title recommends that no legislative changes be made to recoup or eliminate an overage, then that title shall set forth a statement to that effect.

"(B) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS.—If the separate title of a concurrent resolution on the budget proposes to recoup or eliminate less than the entire overage for the prior, current, and budget years, then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets for each applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

"(3) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

"(A) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE.—If a budget control resolution is required and the Committee on the Budget of the House of Representatives fails to report a concurrent resolution on the budget meeting the requirements of paragraph (2)(A) and (B) by April 15, then the Committee shall be automatically discharged from further consideration of the budget control resolution introduced pursuant to paragraph (1) and that resolution shall be placed on the appropriate calendar.

"(B) CONSIDERATION BY HOUSE.—Ten days after the Committee on the Budget of the House of Representatives has been discharged under subparagraph (A), any Member may move that the House proceed to consider the resolution so discharged. Such motion shall be highly privileged and not debatable.

"(4) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE.—It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage indicated in the applicable report of the President under section 322 through directives requiring spending reductions, revenue increases, or changes in the direct spending targets.

"(5) PRESIDENTIAL LEGISLATIVE PROPOSALS.—On or before March 20 (or, if the House is not in session on March 20, on or before the next day on which the House is in session), the Majority Leader (or the Leader's designee) shall introduce (by request) as a bill or as several bills the legislative proposals submitted by the President pursuant to section 323(c) without substantive revision, except that the Majority Leader (or the Leader's designee) shall divide the legislative proposals so as to ensure, as much as possible, that each bill introduced under this paragraph shall be referred to the minimum number of committees. If the Majority Leader (or the Leader's designee) fails to introduce legislation under this paragraph on or before March 20 (or, if the House is not in session on March 20, on or before the next day on which the House is in session), then the Minority Leader may, on or before March 25 (or, if the House is not in session on March 25, on or before the next day on which the House is in session) introduce (by request) the President's legislative proposals in the same fashion as required of the Majority Leader (or the Leader's designee) under this paragraph.

"(6) APPLICATION OF CONGRESSIONAL BUDGET ACT.—To the extent that they are relevant and not inconsistent with this title, the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 shall apply in the House of Representatives to budget control resolutions, resolutions increasing direct spending targets, and reconciliation legislation reported pursuant to directives contained in those resolutions.

"(c) MEANS-TESTED PROGRAMS.—In making recommendations under this section, the Congress should seriously consider all other alternatives before adopting reductions in means-tested programs.

"(d) RELATIONSHIP TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Reductions in outlays or increases in receipts resulting from legislation pursuant to this section shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

"EFFECTIVE DATES.

"SEC. 325. This part shall apply for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.".

(c) CONFORMING AMENDMENT REGARDING PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by redesignating paragraph (28) as paragraph (27) and inserting at the end thereof the following new paragraph:

"(28) the materials required to be included in the budget under sections 322 and 323(b) of the Congressional Budget Act of 1974.".

SEC. 14203. EXERCISE OF RULE-MAKING POWERS.

The Congress enacts the provisions of this part—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such these provisions shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

Part D—Debt Control

SEC. 14301. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This part may be cited as the "Debt Control Act of 1993".

(b) PURPOSE.—The Congress declares that it is essential to create a mechanism to monitor the Federal debt, and, in the event that the Federal debt must be increased beyond the amount set pursuant to a concurrent resolution on the budget, to require the Congress to address changes in the debt limit by recorded vote.

SEC. 14302. REVIEW OF DEBT.

Chapter 11 of title 31 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 1116 Review of debt

"(a) Duty To Report.—A quarterly review of the public debt (as defined in section 3101) shall be performed by the President and included—

"(1) as part of each budget submitted under section 1105(a);

"(2) in a report to Congress issued on or before April 15;

"(3) as part of the mid-session review of the budget submitted under section 1106(a); and

"(4) in a report to Congress issued on or before October 15.

"(b) Contents of Report.—The review required by this section shall include the following—

"(1) information on the level of the public debt and the increment to that debt since the last report under subsection (a);

"(2) an analysis of the variance between the level of debt reported in paragraph (1) and the amount of debt anticipated for this time period in the most recent budget submitted under section 1105(a); and

"(3) recommendations for actions to reduce the rate of increase in the debt.

"(c) Vote To Increase Public Debt.—It shall not be in order in the Senate or the House of Representatives to vote other than by recorded vote on final passage of a bill or joint resolution that would increase the limit on the public debt set forth in section 3101, unless that bill or joint resolution is pursuant to an instruction pursuant to section 310(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 641).".

McCAIN AMENDMENTS NOS. 511 AND 512

Mr. McCAIN submitted two amendments intended to be proposed by him to the bill S. 1134, supra, as follows:

AMENDMENT NO. 511

On page 147, lines 16 through 18, strike "special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965", and insert "the base accounts for individual parks affected by commercial tour operations. The revenue shall be used by the parks for the purposes of supporting and improving internal transportation systems that are directly affected by commercial tour operations. Support and improvement of the systems may include initiation or expansion of shuttle transport systems, development of staging areas to support the systems, and development of comprehensive monitoring programs for determining amounts of use by commercial tour operations.".

The discretionary spending limits for each of the fiscal years 1994 through 1998 as determined under this Act are reduced in each fiscal year by an amount equal to the revenue reduction in each fiscal year resulting from this amendment.

AMENDMENT NO. 512

On page 474, after line 19, insert the following new part:

Part VII—Investment in Indian Reservations

SEC. 8181. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT.—The term 'qualified investment' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on a regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

For purposes of this subparagraph, the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property for which depreciation is allowable under section 168 and which is described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(H) COORDINATION WITH OTHER CREDITS.—The term 'qualified Indian reservation property' shall not include any property with respect to which the energy credit or the rehabilitation credit is allowed.

"(3) REAL ESTATE RENTALS.—For purposes of this section, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

"(6) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on

the date of the enactment of this paragraph."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and" and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the qualified investment taken into account with respect to the property been limited to an amount which bears the same ratio to the qualified investment with respect to such property as the period such property was held by the taxpayer bears to the applicable recovery period under section 168(g).

"(C) COORDINATION WITH OTHER RECAPTURE PROVISIONS.—In the case of property to which this paragraph applies, paragraph (1) shall not apply and the rules of paragraphs (3), (4), and (5) shall apply."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) APPLICATION OF AT-RISK RULES.—Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the qualified investment in qualified Indian reservation property."

(g) CLERICAL AMENDMENTS.—

(1) Section 48 is amended by striking the heading and inserting the following:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; INDIAN RESERVATION CREDIT."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy credit; reforestation credit; Indian reservation credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 8182. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees throughout the taxable year) of the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year.

In no event shall the amount of the Indian employment credit for any taxable year exceed the credit limitation amount determined under subsection (e) for such taxable year.

"(2) INDIAN EMPLOYEE.—For purposes of paragraph (1), the term 'Indian employee' means an employee who is an enrolled member of an Indian tribe or the spouse of such a member.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after January 1, 1994.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1993 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT.—The credit limitation amount for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer (or any predecessor) during calendar year 1993 with respect to employees whose wages (paid or incurred by the employer or any predecessor) during 1993 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45(a), 51(a), and".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45(a)."

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

On page 564, line 11, insert after the period and the end quotation marks the following: , and

(3) by inserting "97.5 percent of" after "equal to" in paragraph (1).

On page 575, line 14, strike "October 1, 1993" and insert "July 1, 1995".

HUTCHISON AMENDMENT NO. 513

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 1134, supra, as follows:

At the appropriate place, insert the following:

SEC. ___. TEN PERCENT REDUCTION IN GOVERNMENT OVERHEAD COSTS.

(a) IN GENERAL.—Subchapter II of chapter 15 of title 31, United States Code, is amended by adding at the end the following:

"§ 1520. Reducing the salaries and expenses within an appropriation by apportionment

"(a) All appropriations for salaries and expenses shall be apportioned as necessary to carry out this section.

"(b)(1) Except as provided by paragraph (2), in apportioning any appropriation for salaries and expenses for a fiscal year under this section, the amount shall be reduced by an amount equal to 5 percent of the actual amount incurred for those salaries and expenses in the immediately preceding fiscal year.

"(2) The reduction required under paragraph (1) for a fiscal year shall (if applicable) be reduced by a dollar amount equal to the amount by which that fiscal year's appropriation for salaries and expenses is less than the actual amount incurred for those salaries and expenses in the immediately preceding fiscal year.

"(c) For purposes of this section, the term 'expenses' means the object classes identified by OMB in Object Classes 20—26 as follows:

"(1) 21.0: Travel and Transportation of Persons.

"(2) 22.0: Transportation of Things.

"(3) 23.1: Rental Payments to GSA.

"(4) 23.2: Rental Payments to Others.

"(5) 23.3: Communications, Utilities, and Misc.

"(6) 24.0: Printing and Reproduction.

"(7) 25.1: Consulting Services.

"(8) 25.2: Other Services.

"(9) 26.0: Supplies and Materials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall only apply to fiscal years 1994 and 1995 and shall have no force or effect after September 30, 1995.

BRADLEY (AND OTHERS) AMENDMENT NO. 514

Mr. BRADLEY (for himself, Mr. HOLLINGS, Mr. COATS, Mr. MCCAIN, and Mr. ROBB) proposed an amendment to the bill S. 1134, supra, as follows:

In lieu of the proposed to be inserted, insert the following:

SEC. ___. LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO

"LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY

"SEC. 1101. (a) SEPARATE ENROLLMENT.—

"(1) Notwithstanding any other provision of law, when—

"(A) any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations; or

"(B) any revenue bill containing a tax expenditure provision,

passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of appropriation or tax expenditure provision of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

"(A) shall be enrolled without substantive revision;

"(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this title); and

"(C) shall bear the designation of the measure of which it was an item of appropriation or tax expenditure provision prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

"(b) PREPARATION AND PRESENTMENT.—A bill or joint resolution enrolled pursuant to subsection (a)(1) with respect to an item of appropriation or tax expenditure provision shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) DEFINITIONS.—For purposes of this title—

"(1) the term 'item of appropriation' means any numbered section and any unnumbered paragraph of—

"(A) any general or special appropriation bill; and

"(B) any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) the term 'tax expenditure provision' means a division of a bill that amends current law or is free standing and that is scored by the Joint Committee on Taxation as losing revenue over the 5-year period after the provision takes effect.".

(b) EFFECTIVE PERIOD.—The amendment made by subsection (a) shall apply to bills and joint resolutions agreed to by the Congress during the 103d Congress.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 515

Mrs. FEINSTEIN (for herself, Mr. MOYNIHAN, Mrs. BOXER, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BOREN, Mr. REID, Mr. EXON, Mr. FORD, Mr. LEVIN, Mr. CONRAD, Mr. DASCHLE, Mr. KERRY, Mr. SIMON, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRAMM, Mrs. HUTCHISON, Mr. PACKWOOD, Mr. MACK, Mr. STEVENS, Mr. THURMOND, and Mr. HATCH) proposed an amendment to the bill S. 1134, supra, as follows:

On page 421, between lines 18 and 19, insert:

SEC. 8114. SENSE OF SENATE REGARDING PERMANENT EXTENSION OF RESEARCH CREDIT.

It is the sense of the Senate that the research credit under section 41 of the Internal Revenue Code of 1986 be extended permanently.

LOTT AMENDMENT NO. 516

Mr. LOTT (for himself, Mr. GRASSLEY, Mr. MACK, Mr. MCCAIN, Mr. PRESSLER, Mr. NICKLES, Mr. COCHRAN, Mr. MCCONNELL, Mr. HELMS, Mr. ROTH, Mr. WARNER, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1134, supra, as follows:

Beginning on page 519, line 19, strike all through page 523, line 22.

METZENBAUM (AND OTHERS) AMENDMENT NO. 517

Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, and Mr. KENNEDY) proposed an amendment to the bill S. 1134, supra, as follows:

On page 865, strike from line 16 through to page 870, line 24.

KERREY AMENDMENT NO. 518

Mr. KERREY proposed an amendment to the bill S. 1134, supra, as follows:

At the end of title VIII add the following new subtitle:

Subtitle C—National Health Care Trust Fund

SEC. 8301. NATIONAL HEALTH CARE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. NATIONAL HEALTH CARE TRUST FUND.

"(a) TRUST FUND ESTABLISHED.—

"(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Health Care Trust Fund', consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section, section 9602(b), and section 1840 of the Social Security Act.

"(2) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby transferred to the National Health Care Trust Fund amounts equivalent to—

"(A) 100 percent of the taxes imposed under sections 1401(b), 3101(b), and 3111(b),

"(B) 100 percent of the taxes imposed under chapters 51 and 52,

"(C) 19 percent of the taxes imposed under sections 3201(a), 3211(a), and 3221(a), and

"(D) 29.125 percent of the taxes imposed under chapter 1.

"(3) TRANSFER OF FUNDS.—All amounts, not otherwise obligated, that remain in the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund on the first day of the fiscal year 1994 shall be transferred to the National Health Care Trust Fund.

"(4) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated and are appropriated to the National Health Care Trust Fund such additional sums as may be required to make expenditures referred to in subsection (b).

"(b) EXPENDITURES.—

"(1) IN GENERAL.—All expenditures to meet the obligations of the United States to provide, directly or indirectly, health care (including the provision of health care facilities and of education or educational assistance related to health care professions) under any provision of law, including—

"(A) under the provisions of title XIX of the Social Security Act, and

"(B) in accordance with the provisions of authorization and appropriations Acts that relate to programs, projects, and activities, under the provisions of—

"(i) title XVIII of the Social Security Act,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code,

"(iv) chapter 89 of title 5, United States Code,

"(v) the Indian Health Care Improvement Act, and

"(vi) the Public Health Service Act,

shall be made only from amounts in the National Health Care Trust Fund.

"(2) INCORPORATION OF MEDICARE TRUST FUND PROVISIONS.—The provisions of subsections (f) through (i) of section 1817 of the Social Security Act (42 U.S.C. 1385i) and subsections (f) through (i) of section 1841 of such Act (42 U.S.C. 1395t), as in effect on the day before the date of the enactment of this section, shall apply to the National Health Care Trust Fund in the same manner as such provisions apply to the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, respectively, except that any reference to the Managing Trustee shall be deemed a reference to the Secretary.

"(c) ANNUAL REPORT.—The Secretary shall make the annual report required by section 9602(a) not later than March 1 of each year. Such report shall be submitted to the Committee of Ways and Means and Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and Committee of Labor and Human Resources of the Senate."

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE.—

(1) Sections 1817 and 1841 of the Social Security Act (42 U.S.C. 1395i and 1395t) are hereby repealed.

(2) The Social Security Act is amended by striking "Federal Hospital Insurance Trust Fund" and "Federal Supplemental Medical Insurance Trust Fund" each place they appear and inserting "National Health Care Trust Fund".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9510 the following new item:

"Sec. 9511. National Health Care Trust Fund."

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1993.

MCCAIN (AND BROWN) AMENDMENT NO. 519

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. BROWN) submitted the following amendment intended to be proposed by them to the bill S. 1134, supra, as follows:

Strike subsection (c) of section 8215.

Mr. MCCAIN. Mr. President, I rise today to offer an amendment to prohibit use of the revenues from the Social Security tax increase being used for anything but the Social Security trust funds.

Seniors all over this country were troubled when the woke up one recent

morning to discover that those with incomes of $32,000 were being labeled as high-income and were going to be rewarded with confiscation of more of their Social Security benefits. While the Senate's version of the Budget Reconciliation Act has a higher threshold, the effect is the same.

When I was first elected to Congress, in 1983, the Social Security trust funds were in terrible shape—losing over a million dollars an hour. That year we adopted the recommendations of the bipartisan National Commission on Social Security Reform.

We made a deal with our Nation's seniors in enacting the recommendations of the Commission, and we did it for the purpose of saving the Social Security system from financial disaster. We increased their taxes, in return for which the senior citizens of this country were assured that they would receive the benefits from the Social Security system, a social contract that they entered into with the Federal Government. Now, it is being proposed that this deal be broken. Not only are we now going to raise their taxes again, what is most troubling is that the revenues are not being targeted for the Social Security trust funds, they are going to be spent on other Government programs.

If we need the revenues to keep the Social Security trust funds fiscally sound that is one thing, but if we do not we should not be touching Social Security benefits. In short, the administration's proposals is a backhanded way to rob seniors of their Social Security benefits. This amendment will ensure that any new tax on Social Security benefits goes to the only place it ought to go—to the Social Security trust funds.

I hope all of my colleagues will examine this amendment and consider supporting it.

McCAIN (AND OTHERS) AMENDMENT NO. 520

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Mr. MACK, and Mr. LOTT) submitted the following amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

On page 411, between lines 11 and 12, insert the following:

Part V—Social Security Earnings Test

SEC. 7961. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 (42 U.S.C. 403) is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 7962. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) (42 U.S.C. 403(f)(8)(D)) is repealed.

SEC. 7963. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 (42 U.S.C. 403) is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) (42 U.S.C. 423(d)(4)) is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Omnibus Budget Reconciliation Act of 1993)".

SEC. 7964. EFFECTIVE DATE.

The amendments made by this part shall apply only with respect to taxable years beginning after December 31, 1993.

Mr. McCAIN. Mr. President, I rise today to offer an amendment to repeal the Social Security earnings test and end an injustice being perpetrated against one segment of our Nation's seniors—those who have or want to work.

This is not a new issue to most of the Members of this body, as we have voted on this amendment before. In fact, in the 102d Congress, the Senate adopted this measure as an amendment to the Older Americans Act reauthorization bill, only to have the amendment stripped in conference by the House. My colleagues may remember the tactics used by Congressman ROSTENKOWSKI to once again give our Nation's elderly the short end of the stick.

Mr. President, it is time that this onerous and antiquated law be repealed.

The amendment we will be voting on today will do just that. Identical to legislation cosponsored by Senators MACK, BRYAN, BURNS, COATS, COCHRAN, DECONCINI, D'AMATO, EXON, GORTON, HELMS, LOTT, PRESSLER, REID, SHELBY, SMITH, STEVENS, and WARNER, this amendment will fully repeal the Social Security earnings test for older Americans between the ages of 65 and 69. This legislation would provide freedom, opportunity, and fairness for our Nation's senior citizens.

Most people are amazed, Mr. President, to find that older Americans are actually penalized for their productivity. For every $3 earned by a retiree over the $10,200 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom exist on low incomes, are effectively burdened with a 33.3-percent tax. Combined with Federal, State, and other Social Security taxes, it will amount to a shocking 70-percent tax bite, and sometimes even more—Federal tax, 15 percent; FICA, 15.3 percent; earnings test penalty, 33.3 percent; State and local tax, 5 percent. Combined with this administration's proposed increase in the portion of Social Security benefits that is subject to taxation, this is quite a tax bite.

Mr. President, this is unquestionably an issue of fairness. No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive. The earnings test does not take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or face losing benefits. It is plainly age discrimination; it is plainly wrong.

Mr. President, there are more than 40 million Americans age 60 or older who have over 1 billion years of cumulative work experience—all going to waste. Three out of five of these people do not

have any disability that would preclude them against working. Furthermore, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. They are struggling to get ahead without hitting the limit. If not for the earnings test, many more would work, but the system is coercing them into retirement and idleness

Perhaps most important, though, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been met, a person with a job providing just $5 an hour would find the after tax value of that wage dropping to only $2.20. A person with no private pension or liquid investments—which, by the way, are not counted as earnings—from his or her working years may need to work in order to meet the most basic expenses, such as shelter and food. Health care costs, rising at an astronomical rate, are another expense many elderly Americans have trouble meeting. There is also a myth that repeal of the earnings test would benefit only 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.

Finally, it is simply outrageous to pursue a policy that keeps people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, "retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000."

Mr. President, we have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Repeal would also save the taxpayer over $200 million a year in reduced compliance costs. According to the Social Security Administration, the earnings test is the largest administrative burden; 60 percent of all overpayments and 45 percent of benefit underpayments are attributable to the earnings test.

Mr. President, this legislation is strongly supported by several of our Nation's largest seniors organizations: National Committee to Preserve Social Security and Medicare, Seniors Coalition, National Alliance of Senior Citizens, Retired Officers Association, and the National Association of Retired Federal Employees.

It is time to see if we can persuade our colleagues in the House to take action and eliminate this confiscatory and antiquated law.

DOMENICI (AND NUNN) AMENDMENT NO. 521

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. NUNN) submitted the following amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

At the appropriate place, insert the following:

SEC. . DISCRETIONARY CAP EXTENTION.

(a) DISCRETIONARY SPENDING.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) with respect to fiscal year 1994—

"(i) for the defense category: $264,051,000,000 in new budget authority and $279,262,000,000 in outlays;

"(ii) for the international category: $21,721,000,000 in new budget authority and $21,660,000,000 in outlays; and

"(iii) for the domestic category: $215,192,000,000 in new budget authority and $237,835,000,000 in outlays;

"(E) with respect to fiscal year 1995—

"(i) for the defense category: $262,624,000,000 in new budget authority and $272,744,000,000 in outlays;

"(ii) for the international category: $21,315,000,000 in new budget authority and $21,416,000,000 in outlays; and

"(iii) for the domestic category: $222,348,000,000 in new budget authority and $247,112,000,000 in outlays;

"(F) with respect to fiscal year 1996—

"(i) for the defense category: $254,139,000,000 in new budget authority and $265,742,000,000 in outlays;

"(ii) for the international category: $20,824,000,000 in new budget authority and $21,013,000,000 in outlays; and

"(iii) for the domestic category: $244,179,000,000 in new budget authority and $260,508,000,000 in outlays;

"(G) with respect to fiscal year 1997—

"(i) for the defense category: $248,490,000,000 in new budget authority and $249,705,000,000 in outlays;

"(ii) for the international category: $20,915,000,000 in new budget authority and $20,894,000,000 in outlays; and

"(iii) for the domestic category: $258,674,000,000 in new budget authority and $276,747,000,000 in outlays; and

"(H) with respect to fiscal year 1998—

"(i) for the defense category: $254,260,000,000 in new budget authority and $253,173,000,000 in outlays;

"(ii) for the international category: $20,695,000,000 in new budget authority and $20,740,000,000 in outlays; and

"(iii) for the domestic category: $255,684,000,000 in new budget authority and $273,957,000,000 in outlays.".

(b) EXTENSION THROUGH FISCAL YEAR 1998.—

(1) POINT OF ORDER.—Section 601(b)(1) of the Congressional Budget Act of 1974 is amended by striking "or 1995" and inserting "1995, 1996, 1997, and 1998".

(2) SECTION 602(c) AND (d).—Subsections (c) and (d) of section 602 of the Congressional Budget Act of 1974 are amended by striking "1995" and inserting "1998".

(3) BUDGET RESOLUTIONS.—Section 606(a) of the Congressional Budget Act of 1974 is amended by striking "and 1995" and inserting "1995, 1996, 1997, and 1998".

(4) EFFECTIVE DATE FOR TITLE.—Section 607 of the Congressional Budget Act of 1974 is amended by striking "1995" and inserting "1998".

(c) ENFORCEMENT OF LIMITS.—

(1) DEFINITIONS.—

(A) CATEGORY.—Paragraph (4) of section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(4) The term 'category' means for fiscal years 1991 through 1998 any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the 3 categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.".

(B) BUDGET RESOURCES.—Paragraph (6) of section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(6) The term 'budgetary resources' means new budget authority; unobligated balances; direct spending authority; and obligation limitations.".

(C) OUT YEAR.—Section 250(c)(14) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking beginning with "fiscal years" through the period and inserting "4 fiscal years that follow the budget year.".

(2) ENFORCING DISCRETIONARY SPENDING LIMITS.—

(A) COVERAGE.—Section 251(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the caption and inserting "FISCAL YEARS 1993–1998 ENFORCEMENT.—".

(B) ADJUSTMENTS.—Subsection (b) of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) in paragraph (1) in the matter before subparagraph (A)—

(I) by striking "budget year 1992, 1993, 1994, or 1995" and inserting "each budget year for fiscal years 1993 through 1998"; and

(II) by striking "outyear through 1995" and inserting "outyear through 1998"; and

(ii) by amending paragraph (2)(D) to read as follows:

"(D) If, for any fiscal year 1994 through 1998, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations.".

(3) REBASING.—For the purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act, OMB shall not include the net deficit impact of this Act in its pay-as-you-go estimates and reports for fiscal years 1993 through 2003.

BUMPERS AMENDMENTS NOS. 552 AND 523

(Ordered to lie on the table.)

Mr. BUMPERS submitted two amendments intended to be proposed

by him to the bill S. 1134, supra, as follows:

AMENDMENT NO. 522

On page 337, beginning with line 1, strike all through page 389, line 7, and insert the following:

SEC 7802. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such payment to a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)."

(b) STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396a) is amended by adding after paragraph (58) the following new paragraph:

"(59) provide for the establishment of a State vaccine bulk purchase program for the purchase of pediatric vaccines." and by adding the end of the following new subsection:

"(z)(1) For purposes of section 1396 a (a)(59), a vaccine replacement program described in this subsection is a vaccine bulk purchase program under which a State with a State plan approved under this title contracts with each manufacturer of childhood vaccines selling such vaccines in the State to——

"(A) supply doses of childhood vaccines to providers (or in the case of a State medicaid vaccine program, the State) administering such vaccines to individuals eligible to receive medical assistance under the State plan and replace such vaccines as needed; and

"(B) charge the State agency for such doses of childhood vaccine the price under the most recent bid (determined once such bid price is made public) submitted by a manufacturer which receives the Centers for Disease Control and Prevention contract with respect to the childhood immunization program under the Public Health Services Act, plus a reasonable fee to cover shipping and handling of returns for such doses.

"(2) Any manufacturer of childhood vaccines selling such vaccines in a State which does not participate in a vaccine replacement program described in paragraph (1) which is operated in such State shall be ineligible to bid for Centers for Disease Control and Prevention immunization contracts under section 317(j) of the Public Health Services Act.".

(c) DEFINITION OF STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396d) is amended by adding at the end of the following new subsection:

"(t) VACCINE BULK PURCHASE PROGRAM.—The term "vaccine bulk purchase program" means a State program which purchases vaccines at prices negotiated by the Centers for Disease Control and Prevention's childhood immunization program and distributes such vaccines free of charge to entities providing medical assistance to individuals eligible for such medical assistance under this title."

(d) AGREEMENT WITH THE STATE.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)) is amended—

(1) by striking "under the State plan" and inserting "under the State plan and with any entity that is a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(e) CDC PRICE PLUS CPI.—To the extent that, at the date of enactment, a specific vaccine is purchased under contract with the Centers for Disease Control and Prevention as provided in the Public Health Service Act, no bid for the purchase of such vaccine shall be accepted by the Centers for Disease Control and Prevention if the price per dose of such vaccine exceeds the price in effect on the date of enactment increased by the percentage increase in CPI from date of the contract in effect on the date of the enactment to the date of the contract. This provision shall be in effect for contracts made in Fiscal Year 1994 through Fiscal Year 1998.

(f) MULTIPLE SUPPLIERS.—The Public Health Service provisions relating to the Centers for Disease Control and Prevention purchase of vaccine may not be construed as prohibiting the Secretary from entering into a contract with each manufacturer of a vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 7803. STATE OPTION TO PROVIDE THAT CERTAIN PAYMENTS UNDER AFDC ARE CONDITIONED ON RECEIPT OF IMMUNIZATIONS.

(a) IN GENERAL.—Section 402 (42 U.S.C. 602) is amended——

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) at the option of the State, provide that if a family receiving aid to families with dependent children for any month includes a child under the age of 6 who has not received appropriate immunizations (as determined by the State), the State will take actions to encourage the timely immunization of such child including, but not limited to, reducing the total benefits received by such family for such month by all or a portion of the benefits allocable to the parent or guardian of such child and either—

"(A) placing all or a portion of such amount in an account until the family demonstrates to the State that such child has been appropriately immunized; or

"(B) using all or a portion of such amount to provide services to such family intended to ensure that such child receives appropriate immunizations.".

(b) STATE PROGRAMS TO ENCOURAGE APPROPRIATE IMMUNIZATIONS.——

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this subsection as the "Secretary") shall provide for the establishment of programs intended to ensure the appropriate immunization of children to be operated in the States electing to take actions to encourage the timely immunization of children described in section 402(a)(46) of the Social Security Act.

(2) PAYMENTS TO STATES AND LIMITS ON FUNDING.——

(A) PAYMENTS TO STATES.—Except as provided in subparagraph (B), the Secretary shall pay to each State conducting a program under this subsection for each quarter in which such program is conducted an amount equal such State's Federal percentage (as determined under section 403(a) of the Social Security Act) of the expenditures incurred by such State during such quarter in conducting such program.

(B) LIMITS ON FUNDING.—In conducting programs under this subsection, the Secretary shall limit the total amount of the Federal share of expenses incurred under title IV of the Social Security Act to no more than $250,000 for each State in any year.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall become effective on the date of the enactment of this Act.

AMENDMENT NO. 523

On page 863, between lines 13 and 14, insert the following new section:

SEC. 12205. PERFORMANCE BASED GRANT PROGRAM.

(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Center for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection(c).

(b) PAYMENTS TO STATES.——

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Health and Human Services shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to——

(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 65 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 93 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

(2) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary of Health and Human Services shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

(c) DEFINITION.—For purposes of this section, the term "fully immunized" means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps rubella) vaccine.

STEVENS (AND INOUYE) AMENDMENT NO. 524

Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill S. 1134, supra, as follows:

On page 138, immediately before line 1, insert the following new paragraph:

"(7) As part of any proceeding under this subsection the Commission (i) shall consider

in such proceeding the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or, consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services."

On page 138, line 1, strike "(7)" and insert in lieu thereof "(8)".

ROTH (AND OTHERS) AMENDMENT NO. 525

Mr. ROTH (for himself, Mr. SHELBY, Mr. D'AMATO, Mr. HATCH, Mr. MACK, Mr. BURNS, Mr. COATS, Mr. BENNETT, Mr. BOND, Mr. STEVENS, Mr. MURKOWSKI, and Mr. LUGAR) proposed an amendment to the bill S. 1134, supra, as follows:

On page 486, between lines 3 and 4, insert the following new section:

SEC. 8203B. MAXIMUM SMALL BUSINESS TAX RATE.

(a) IN GENERAL.—Section 1 (relating to tax imposed), as amended by this subtitle, is amended by adding at the end the following new subsection:

"(j) MAXIMUM SMALL BUSINESS TAX RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (4), if a taxpayer has taxable small business income for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of taxable small business income, or

"(ii) the amount of taxable income taxed at a rate below 31 percent, plus

"(B) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) TAXABLE SMALL BUSINESS INCOME.—For purposes of this subsection, the term 'taxable small business income' means, with respect to any taxable year, the least of—

"(A) the taxable income of the taxpayer for such year attributable to the active conduct of any trade or business of an eligible small business in which the taxpayer materially participates (within the meaning of section 469(h) (other than paragraph (4))),

"(B) the net earnings from self-employment (within the meaning of section 1402(a), applied without dollar limitation) of the taxpayer for such year attributable to the active conduct of such trade or business, or

"(C) the taxpayer's share of additions for such taxable year to the qualified retained earnings account of such trade or business.

For purposes of determining net earnings from self-employment under subparagraph (B), an S corporation shall be treated as if it were a partnership.

"(3) QUALIFIED RETAINED EARNINGS ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified retained earnings account' means an account established by a trade or business—

"(i) which is designated as a qualified retained earnings account for purposes of this subsection,

"(ii) additions to which may only be made in cash,

"(iii) distributions from which may only consist of qualified distributions, and

"(iv) any earnings on which are not allocated to the account.

"(B) QUALIFIED DISTRIBUTIONS.—For purposes of subparagraph (A), distributions from a qualified retained earnings account shall be treated as qualified distributions if used—

"(i) to pay ordinary and necessary expenses paid or incurred in carrying on the trade or business of the eligible small business to which the account relates, and

"(ii) to pay the tax imposed under this subtitle on amounts in the account.

"(4) ADDITIONAL TAX ON NONQUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—If—

"(i) a distribution other than a qualified distribution is made from a qualified retained earnings account, and

"(ii) such distribution is made from additions to the account for a taxable year with respect to which paragraph (1) applied to the taxpayer by reason of such additions,

then the tax imposed by this section for the taxable year of the taxpayer with or within which the taxable year of the eligible small business in which the distribution was made ends shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF ADDITIONAL TAX.—The amount of tax determined under this subparagraph is an amount equal to the sum of—

"(i) the product of the taxpayer's pro rata share of the distribution described in subparagraph (A)(i) and the number of percentage points(and fractions thereof) by which the highest rate of tax in effect under this section for the taxpayer's taxable year exceeds 31 percent, plus

"(ii) the product of—

"(I) the amount by which the taxpayer's pro rata share of such distribution, when added to the taxpayer's pro rata share of previous distributions from additions to the account for the same taxable year, exceeds $135,000, and

"(II) the rate of tax imposed by section 1401(b) for the taxpayer's taxable year.

"(C) ORDER OF DISTRIBUTIONS.—For purposes of this paragraph, distributions shall be treated as having been made from the qualified retained earnings account on a first-in, first-out basis.

"(D) TREATMENT OF HEALTH INSURANCE TAX.—For purposes of this title, the tax described in subparagraph (B)(ii) shall be treated as if it were a tax imposed by section 1401(b).

"(5) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible small business' means for any taxable year a sole proprietorship, partnership, or S corporation the average annual gross receipts of which do not exceed $10,000,000 for any 3-taxable-year period ending before or with the preceding taxable year.

"(B) APPLICABLE RULES.—

"(i) SOLE PROPRIETORSHIP.—In the case of a sole proprietorship, only receipts in connection with a trade or business shall be taken into account.

"(ii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of subparagraph (A).

"(iii) SPECIAL RULES.—The rules of subsections (c)(3) and (d)(8) of section 448 shall apply for purposes of subparagraph (A).

"(6) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any taxable year if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever applies) for the taxable year exceeds 31 percent.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations preventing the characterization of distributions for purposes of compensation or personal use as qualified distributions under paragraph (3)(B)(i)."

(b) CERTAIN TAXABLE SMALL BUSINESS INCOME NOT SUBJECT TO HI TAX.—Section 3121(a) (defining wages) is amended—

(i) by striking "or" at the end of paragraph (20),

(ii) by striking the period at the end of paragraph (21) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(22) any taxable small business income (as defined in section 1(j)), to the extent such income exceeds $135,000.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(d) EXTENSION OF CAPS.—

(1) FISCAL YEARS 1994 AND 1995.—The overall discretionary spending limits established in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 and 1995 as in effect on the date of enactment of this Act are reduced by—

(A) $4,452,000,000 in outlays for fiscal year 1994; and

(B) $5,233,000,000 in outlays for fiscal year 1995.

(2) FISCAL YEARS 1996, 1997, AND 1998.—

(A) IN GENERAL.—For fiscal years 1996, 1997, and 1998, there shall be caps on discretionary spending as provided in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 and 1995, subject to the provisions of subparagraphs (B) and (C).

(B) LEVEL OF LIMITS.—The discretionary limits on new budget authority and outlays for fiscal years 1996, 1997, and 1998 shall be—

(i) the levels assumed in H. Con. Res. 64, agreed to March 31, 1993, for such fiscal years, reduced by

(i)(I) $5,630,000,000, in outlays for fiscal year 1996;

(II) $6,031,000,000, in outlays for fiscal year 1997; and

(III) $6,352,000,000, in outlays for fiscal year 1998.

(C) EXTENSION OF LAW.—The provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 relating to the enforcement of the discretionary spending limit for fiscal years 1994 and 1995 are extended through fiscal year 1998 for the purpose of enforcing the limits set forth in this paragraph.

PRESSLER AMENDMENT NO. 526

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

Beginning on page 660, line 12, strike all through page 661 line 3.

BROWN AMENDMENTS NOS. 527 AND 528

(Ordered to lie on the table.)

Mr. BROWN submitted two amendments intended to be proposed by him to the bill, S. 1134, supra, as follows:

AMENDMENT NO. 527

Beginning on page 31, strike line 21 and all that follows through page 32, line 18, and insert the following new section:

SEC. 1110. ELIMINATION OF HONEY PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Sections 207 and 405A of the Agricultural Act of 1949 (7 U.S.C. 1446h and 1425a) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) PAYMENT LIMITATIONS.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) is amended—

(A) in subparagraph (B)(iii), by striking "(other than honey)"; and

(B) by striking subparagraph (C).

(2) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "honey,".

(3) OTHER NONBASIC AGRICULTURAL COMMODITIES.—Section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting after "nonbasic agricultural commodity" the following: "(other than honey)".

(4) DEFINITIONS.—Section 408(k) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended by striking "honey," each place it appears.

(5) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after "agricultural commodities" the following: "(other than honey)".

(c) TRANSITION PROVISIONS.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the application of the amendments in accordance with subsection (d).

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply beginning with the 1994 crop of honey.

AMENDMENT NO. 528

On page 620, strike lines 12 through 21, and insert the following:

(3) Section 9503(b)(4)(B) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" and "such sections".

(4) Section 9503(c)(4)(D) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(5) Section 9503(c)(5)(B) is amended by inserting "and the deficit reduction rate under such section to the extent such rate does not exceed 4.3 cents per gallon" after "such section".

(6) Section 9503(c)(6)(D) is amended by inserting "and the deficit reduction rate to the extent such rate does not exceed 4.3 cents per gallon" after "financing rate".

(7) Section 9506(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

INOUYE (AND OTHERS) AMENDMENT NO. 529

Mr. INOUYE (for himself, Mr. AKAKA, Mr. REID, Mr. BRYAN, Mr. EXON, Mr. GRAHAM, Mr. HOLLINGS, Mr. HATCH, Mr. DOLE, Mr. DURENBERGER, Mr. CRAIG, Mr. COATS, Mr. BROWN, Mr. DOMENICI, Mr. BURNS, Mr. D'AMATO, Mr. MACK, Mr. COVERDELL, Mr. WALLOP, Mr. BREAUX, Mr. KOHL, Mr. CHAFEE, Mr. WARNER, Mr. ROTH, and Mr. KERRY) proposed an amendment to the bill S. 1134, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. SENSE OF THE SENATE RELATING TO THE DEDUCTIBILITY OF BUSINESS MEALS AND ENTERTAINMENT EXPENSES.

(a) FINDINGS.—The Congress finds the following:

(1) That—

(A) travel and tourism is the third largest retail industry in the United States and accounts for 11 percent of the total value of goods and services exported by the United States;

(B) in 1992, the tourism industry produced revenues in the amount of $369,000,000,000 which produced $44,000,000,000 in tax revenues; and

(C) of such tax revenues, the Federal Government received $24,000,000,000.

(2) The restaurant industry provides thousands of jobs in the United States.

(3) The American performing arts community supports, develops, and exports world-class performing arts.

(4) The reduction in the rate of the tax deductibility of business meals and entertainment expenses from 80 percent to 50 percent may have a negative impact on the United States restaurant, entertainment, and tourism industries.

(5) Any loss of revenues due to the reduction described in paragraph (4) may result in the loss of jobs in the restaurant, entertainment, and tourism industries, many of which are filled by young individuals in their first jobs and by members of minority groups.

(6) The unemployment rate among individuals and members described in paragraph (5) greatly exceeds the national unemployment rate of 6.9 percent.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the conferees with respect to this title will make every effort to reduce or eliminate the proposed reduction in the deductibility of business meals and entertainment expenses.

GREGG (AND KASSEBAUM) AMENDMENT NO. 530

Mr. GREGG (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1134, supra, as follows:

On page 809, line 24, strike "may" and insert "shall".

DECONCINI (AND OTHERS) AMENDMENT NO. 531

Mr. DECONCINI (for himself, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill S. 1134, supra, as follows:

On page 479, beginning with line 14, strike all through page 521, before line 22, and insert the following:

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 8201) is amended by striking the last item in the table contained therein and inserting the following:

"Over $140,000 but not over $200,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $200,000	$57,528.50, plus 39.6% of the excess over $200,000."

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $127,500 but not over $200,000.	$33,385, plus 36% of the excess over $127,500.
Over $200,000	$59,485, plus 39.6% of the excess over $200,000."

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $115,000 but not over $200,000.	$31,172, plus 36% of the excess over $115,000.
Over $200,000	$61,772, plus 39.6% of the excess over $200,000."

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $70,000 but not over $100,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $100,000	$28,764.25, plus 39.6% of the excess over $100,000."

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $5,500 but not over $6,000.	$1,405, plus 36% of the excess over $5,500.
Over $6,000	$1,585, plus 39.6% of the excess over $6,000."

(b) SURTAX ON NET CAPITAL GAINS.—Section 1(h) (relating to maximum capital gains rate) is amended by striking the period at the end of paragraph (2) and inserting ", plus", and by adding at the end the following new paragraph:

"(3) a tax of 2.8 percent of the lesser of—

"(A) the net capital gain, or

"(B) the amount of taxable income in excess of the dollar amount at which the last rate bracket begins for such taxable year in the table contained in subsection (a), (b), (c), (d), or (e), whichever is applicable."

(c) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 8201) are each amended by striking "36 percent" and inserting "39.6 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

"(1) AMOUNT OF TENTATIVE TAX.—

"(A) NONCORPORATE TAXPAYERS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203A. RATE INCREASES NOT TO TAKE EFFECT UNTIL JULY 1, 1993.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—

"(1) IN GENERAL.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(A) by substituting '33.5 percent' for '36 percent',

"(B) by substituting '35.3 percent' for '39.6 percent', and

"(C) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under the table contained in paragraph (2).

"(2) DOLLAR AMOUNT OF TAX.—The dollar amount substituted under paragraph (1) shall be determined as follows:

"In the case of:	The dollar amount is:
Subsection (a)	$56,028.50 for $57,528.50.
Subsection (b)	$57,672.50 for $59,485.00.
Subsection (c)	$59,647.00 for $61,772.00.
Subsection (d)	$28,014.25 for $28,764.25.
Subsection (e)	$1,572.50 for $1,585."

(b) CONFORMING AMENDMENTS.—

(1) Sections 531 and 541 (as amended by section 8202) are each amended by inserting "(35.3 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(2) Section 1(h)(3), as added by section 8202(b), is amended by inserting "(1.4 percent in the case of taxable years beginning in calendar year 1993)" after "2.8 percent".

(3) Paragraph (1) of section 55(b), as amended by section 8203, is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '25 percent' for '26 percent' in subclause (I), and

"(ii) '26 percent' for '28 percent' in subclause (II)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 8205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 8206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition or other termination of any position which was held as part of a conversion transaction, such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition or other termination referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition or other termination (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition or other termination of a position which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any transaction—

"(1) substantially all of the taxpayer's expected return from which is attributable to the time value of the taxpayer's net investment in such transaction, and

"(2) which is—

"(A) the holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis,

"(B) an applicable straddle,

"(C) any other transaction which is marketed or sold as producing capital gains and as a transaction described in paragraph (1), or

"(D) any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that the term 'personal property' shall include stock.

"(2) APPLICABLE RATE.—The term 'applicable rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If any position with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such position for periods after such position becomes part of such transaction, such position shall be taken into account at its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition or other termination of such position in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the loss (if any) which would have been realized if the position had been disposed of or otherwise terminated at its fair market value as of the time such position became part of such transaction.

"(4) POSITION TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any position which becomes part of such transaction (determined as of the time such position became part of such transaction).

"(5) SPECIAL RULE FOR OPTIONS DEALERS AND COMMODITIES TRADERS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to transactions —

"(i) of an options dealer in the normal course of the dealer's trade or business of dealing with options, or

"(ii) of a commodities trader in the normal course of the trader's trade or business of trading section 1256 contracts.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(ii) COMMODITIES TRADER.— The term 'commodities trader' means any person who is a member (or, to the extent provided in regulations, is entitled to trade as a member) of a domestic board of trade which is designated as a contract market by the Commodity Futures Trading Commission.

"(C) LIMITED PARTNERS AND LIMITED ENTREPRENEURS.—In the case of any gain from a transaction recognized by an entity which is allocable to a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)), subparagraph (A) shall not apply if—

"(i) substantially all of the limited partner's (or limited entrepreneur's) expected return from the entity is attributable to the time value of the partner's (or entrepreneur's) net investment in such entity,

"(ii) the transaction (or the interest in the entity) was marketed or sold as producing capital gains treatment and as a transaction described in subsection (c)(1), or

"(iii) the transaction (or the interest in the entity) is a transaction (or interest) specified in regulations prescribed by the Secretary."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).''

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993, any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993, disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired.''

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause.''

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1, as amended by section 8202(b), is amended by adding at the end the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) IN GENERAL.—Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 8207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting "in the case of the taxes imposed by sections 3101(a) and 3111(a)" after "(1)",

(B) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking "that part of the net" in paragraph (1) and inserting "in the case of the tax imposed by section 1401(a), that part of the net",

(B) by striking "applicable contribution base (as determined under subsection (k))" in paragraph (1) and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)",

(C) by inserting "and" after "section 3121(b),", and

(D) by striking "and (C) includes" and all that follows through "3111(b)".

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b).''

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.''

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 8208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking "($18,340,000 in the case of decedents dying, and gifts made, after 1992)".

(3) The last sentence of section 2101(b) is amended by striking "section 2001(c)(3)" and inserting "section 2001(c)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 8209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking "80 percent" and inserting "50 percent".

(b) SUBSTANTIATION REQUIREMENT.—In the case of taxable years beginning after December 31, 1993, Treasury Regulation §1.274-5T(c)(2)(iii)(B) shall be applied by substituting "$20" for "$25".

(c) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking "80" and inserting "50".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: "This paragraph shall not apply for purposes of subsection (a)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 8211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or is an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals, but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more outside directors,

"(ii) the material terms under which the remuneration is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 8212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) QUALIFICATION REQUIREMENT.—

(1) IN GENERAL.—Section 401(a)(17) is amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000",

(B) by striking the second sentence, and

(C) by adding at the end the following new subparagraph:

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—If, for any calendar year after 1994, the excess (if any) of—

"(I) $150,000, increased by the cost-of-living adjustment for the calendar year, over

"(II) the dollar amount in effect under subparagraph (A) for taxable years beginning in the calendar year,

is equal to or greater than $10,000, then the $150,000 amount under subparagraph (A) (as previously adjusted under this subparagraph) for any taxable year beginning in any subsequent calendar year shall be increased by $10,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—The cost-of-living adjustment for any calendar year shall be the adjustment made under section 415(d) for such calendar year, except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1993."

(2) CONFORMING AMENDMENT.—Section 401(a)(17) is amended by striking "(17) A trust" and inserting:

"(17) COMPENSATION LIMIT.—

"(A) IN GENERAL.—A trust".

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B)."

(c) OTHER RELATED PROVISIONS.—

(1) IN GENERAL.—Sections 404(l) and 505(b)(7) are each amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000", and

(B) by striking the second sentence and inserting "The Secretary shall adjust the $150,000 amount at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B)."

(2) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking "$200,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

(2) EXCEPTION FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions or benefits pursuant to such agreements for plan years beginning before the earlier of—

(A) the latest of—

(i) January 1, 1994,

(ii) the date on which the last of such collective bargaining agreements terminates (without regard to any extension, amendment, or modification of such agreements on or after such date of enactment), or

(iii) in the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on such date of enactment, or

(B) January 1, 1997.

(3) TRANSITION RULE FOR STATE AND LOCAL PLANS.—

(A) IN GENERAL.—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the dollar limitation under section 401(a)(17) of such Code shall not apply to the extent the amount of compensation which is allowed to be taken into account under the plan would be reduced below the amount which was allowed to be taken into account under the plan as in effect on July 1, 1993.

(B) ELIGIBLE PARTICIPANT.—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan during a plan year beginning before the 1st plan year beginning after the earlier of—

(i) the plan year in which the plan is amended to reflect the amendments made by this section, or

(ii) December 31, 1995.

(C) PLAN MUST BE AMENDED TO INCORPORATE LIMITS.—This paragraph shall not apply to any eligible participant of a plan unless the plan is amended so that the plan incorporates by reference the dollar limitation under section 401(a)(17) of the Internal Revenue Code of 1986, effective with respect to noneligible participants for plan years beginning after December 31, 1995 (or earlier if the plan amendment so provides).

SEC. 8213. MODIFICATION TO DEDUCTION FOR CERTAIN MOVING EXPENSES.

(a) DOLLAR LIMITATION.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) DOLLAR LIMIT.—

"(i) IN GENERAL.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $10,000, of which the aggregate amount which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500.

"(ii) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in calendar years after 1994, the $10,000 amount under clause (i) shall be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting '1993' for '1992'. Any amount determined under this clause which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.

"(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000' and '$750' for '$1,500'."

(2) FOREIGN MOVES.—Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting:

"(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

"(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) (as modified by subsection (h)(1)(B)) shall be applied by substituting "$2,250" for "$4,500".'."

(b) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting "or" at the end of subparagraph (C), by striking ", or" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217, as amended by subsection (a), is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Section 217 is amended by striking subsection (e).

(c) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 8214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

"(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

"(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

"(ii) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

"(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(2) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) ADDITIONAL INCLUSION FOR CERTAIN TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new paragraph:

"(2) ADDITIONAL AMOUNT.—In the case of a taxpayer with respect to whom the amount determined under subsection (b)(1)(A) exceeds the adjusted base amount, the amount included in gross income under this section shall be equal to the lesser of—

"(A) the sum of—

"(i) 85 percent of such excess, plus

"(ii) the lesser of the amount determined under paragraph (1) or an amount equal to one-half of the difference between the adjusted base amount and the base amount of the taxpayer, or

"(B) 85 percent of the social security benefits received during the taxable year."

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 86 is amended—

(A) by striking "Gross" and inserting:

"(1) IN GENERAL.—Except as provided in paragraph (2), gross", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) ADJUSTED BASE AMOUNT.—Section 86(c) (defining base amount) is amended to read as follows:

"(c) BASE AMOUNT AND ADJUSTED BASE AMOUNT.—For purposes of this section—

"(1) BASE AMOUNT.—The term 'base amount' means—

"(A) except as otherwise provided in this paragraph, $25,000,

"(B) $32,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) ADJUSTED BASE AMOUNT.—The term 'adjusted base amount' means—

"(A) except as otherwise provided in this paragraph, $37,000,

"(B) $54,000 in the case of a joint return,

GORTON (AND OTHERS) AMENDMENT NO. 532

Mr. GORTON (for himself, Mr. BRYAN, Mr. DANFORTH, Mr. MCCAIN, Mrs. HUTCHISON, Mr. HATCH, Mr. PRESSLER, Mr. MATHEWS, Mr. DURENBERGER, Mr. INOUYE, Mr. AKAKA, Mr. WARNER, Mr. CHAFEE, Mr. WOFFORD, Mr. BENNETT, Mr. BURNS, Mr. BINGAMAN, Mr. NICKLES, Mr. BOREN, and Mr. NUNN) proposed an amendment to the bill S. 1134, supra, as follows:

On page 636, lines 17 and 18, strike ", and" and all that follows to the period.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 533

Mr. ROCKEFELLER (for himself, Mr. MITCHELL, Mr. HARKIN, Mr. SASSER, Mr. KENNEDY, Mr. WOFFORD, Mr. PELL, Mr. RIEGLE, Mr. AKAKA, and Mr. CHAFEE)

proposed an amendment to the bill S. 1134, supra, as follows:

On page 178, strike lines 5 through 20.

On page 185, strike lines 11 through 16.

On page 186, beginning with line 14, strike all through page 187, line 6.

On page 212, beginning with line 7, strike all through page 214, line 24.

On page 227, beginning with line 6, strike all through page 233, line 10.

BROWN AMENDMENTS NOS. 534 AND 535

Mr. BROWN submitted two amendments intended to be proposed by him to the bill S. 1134, supra, as follows:

AMENDMENT NO. 534

On page 620, strike lines 12 through 21, and insert the following:

(3) Section 9503(b)(4)(B) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(4) Section 9503(c)(4)(D) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(5) Section 9503(c)(5)(B) is amended by inserting "and the deficit reduction rate under such section to the extent such rate does not exceed 4.3 cents per gallon" after "such section".

(6) Section 9503(c)(6)(D) is amended by inserting "and the deficit reduction rate to the extent such rate does not exceed 4.3 cents per gallon" after "financing rate".

(7) Section 9506(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

AMENDMENT NO. 535

Beginning on page 31, strike line 21 and all that follows through page 32, line 18, and insert the following new section:

SEC. 1110. ELIMINATION OF HONEY PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Sections 207 and 405A of the Agricultural Act of 1949 (7 U.S.C. 1446h and 1425a) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) PAYMENT LIMITATIONS.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) is amended—

(A) in subparagraph (B)(iii), by striking "(other than honey)"; and

(B) by striking subparagraph (C).

(2) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "honey,".

(3) OTHER NONBASIC AGRICULTURAL COMMODITIES.—Section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting after "nonbasic agricultural commodity" the following: "(other than honey)".

(4) DEFINITIONS.—Section 408(k) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended by striking "honey," each place it appears.

(5) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after "agricultural commodities" the following: "(other than honey)".

(c) TRANSITION PROVISIONS.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the application of the amendments in accordance with subsection (d).

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply beginning with the 1994 crop of honey.

DOLE (AND OTHERS) AMENDMENT NO. 536

Mr. DOLE (for himself, Mr. GRAMM, Mr. WALLOP, Mr. COHEN, Mr. BURNS, Mr. ROTH, Mr. SIMPSON, and Mr. DOMENICI) proposed an amendment to the bill S. 1134, supra, as follows:

At the appropriate place, add the following: "All changes in revenues contained in this bill which raise revenues, shall cease to be effective, and the tax rates shall revert to the status quo ante this bill, on September 30, 1998."

McCAIN (AND OTHERS) AMENDMENT NO. 537

Mr. McCAIN (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. STEVENS) proposed an amendment to the bill S. 1134, supra, as follows:

On page 474, after line 19, insert the following new part:

Part VII—Investment in Indian Reservations

SEC. 8181. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT.—The term 'qualified investment' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on a regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

For purposes of this subparagraph, the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property for which depreciation is allowable under section 168 and which is described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(H) COORDINATION WITH OTHER CREDITS.—The term 'qualified Indian reservation property' shall not include any property with respect to which the energy credit or the rehabilitation credit is allowed.

"(3) REAL ESTATE RENTALS.—For purposes of this section, the rental to others of real

property located within an Indian reservation shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

"(6) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and" and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the qualified investment taken into account with respect to the property been limited to an amount which bears the same ratio to the qualified investment with respect to such property as the period such property was held by the taxpayer bears to the applicable recovery period under section 168(g).

"(C) COORDINATION WITH OTHER RECAPTURE PROVISIONS.—In the case of property to which this paragraph applies, paragraph (1) shall not apply and the rules of paragraphs (3), (4), and (5) shall apply."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) APPLICATION OF AT-RISK RULES.—Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the qualified investment in qualified Indian reservation property."

(g) CLERICAL AMENDMENTS.—

(1) Section 48 is amended by striking the heading and inserting the following:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; INDIAN RESERVATION CREDIT."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy credit; reforestation credit; Indian reservation credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 8182. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees throughout the taxable year) of the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year.

In no event shall the amount of the Indian employment credit for any taxable year exceed the credit limitation amount determined under subsection (e) for such taxable year.

"(2) INDIAN EMPLOYEE.—For purposes of paragraph (1), the term 'Indian employee' means an employee who is an enrolled member of an Indian tribe or the spouse of such a member.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after January 1, 1994.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during

such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1993 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT.—The credit limitation amount for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer (or any predecessor) during calendar year 1993 with respect to employees whose wages (paid or incurred by the employer or any predecessor) during 1993 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45(a), 51(a), and".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45(a)."

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

On page 564, line 11, insert after the period and the end quotation marks the following: , and

(3) by inserting "97.5 percent of" after "equal to" in paragraph (1).

On page 575, line 14, strike "October 1, 1993" and insert "July 1, 1995".

CATAWBA INDIAN LAND CLAIMS SETTLEMENT ACT

HOLLINGS (AND THURMOND) AMENDMENT NO. 538

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill (S. 1156) to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the tribe, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

SEC. . TAXATION.

(a) INDIAN TRIBAL GOVERNMENT TAX STATUS ACT.—Section 7871 of the Internal Revenue Code of 1986 (26 U.S.C. 7871; commonly referred to as the "Indian Tribal Government Tax Status Act) shall apply to the

Tribe and its Reservation. In no event, however, may the Tribe pledge or hypothecate the income or principal of the Catawba Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

(b) GENERAL TAX LIABILITY.—The Tribe, its Members, the Tribal Trust Funds, and any other persons or entities affiliated with or owned by the Tribe, Members, or the Tribal Trust Funds, whether resident or located or doing business on the Reservation or off the Reservation, shall be subject to all Federal, State, and local taxes, licenses, levies, and fees except as expressly provided in this section or in the State implementing legislation. Any other person or business entity which locates, operates, or does business on the Reservation shall be subject without exception to all Federal, State, and local taxes, licenses, and fees, unless otherwise expressly provided in this section. To the extent that the Tribe may be subject to any taxes under this section, the Tribe shall be taxed as if it were a business corporation incorporated under the laws of South Carolina unless otherwise expressly provided.

(c) TAXES ON GAMES OF CHANCE.—(1) If the Tribe elects to sponsor and conduct games of bingo under the provisions of section 16 of this Act, no Federal, State, or local taxes shall apply to the Tribe's bingo revenues except for the special bingo tax provided in the State implementing legislation. If the Tribe elects to sponsor and conduct games of bingo under a regular license allowed non-profit organizations under the State's Bingo Act (Title 12, Chapter 21, Article 23, South Carolina Code of Laws, 1976), the Tribe shall be taxed as a non-profit corporation under that Act with respect to all revenues generated from the bingo games.

(2) Should the Tribe obtain a license to operate electronic play devices as provided by the State implementing legislation, the Tribe shall be subject to all taxes, license requirements and fees governing electronic play devices provided by State law.

(d) INCOME TAXES.—(1) Income of the Tribe, subdivisions and governmental agencies of the Tribe, including entities owned by the Tribe or the Federal Government and the Tribal Trust Funds, and tax revenues collected by the Tribe by levy or assessment, shall be non-taxable for Federal income tax purposes to the extent provided by Federal law for recognized or restored Indian Tribes. Any tribal income and tax revenues which are non-taxable for Federal income tax purposes because of the Tribe's status as a recognized or restored Indian Tribe shall also be non-taxable for purposes of State income taxes and local income taxes.

(2)(A) Except as provided in this subsection, Members shall be liable for payment of Federal, State, and local income taxes to the same extent as any other person in the State.

(B) Income earned by Members for work performing governmental functions solely on the Reservation shall be exempt from State taxes for a period of 99 years after the effective date of this Act.

(C) Income earned by Members from the sale of Catawba Indian pottery and artifacts, whether on or off the Reservation, which are made by Members, shall be exempt from Federal, State, and local income taxes.

(D) For purposes of Federal income taxes, the income of Members earned on the Reservation shall be taxable to the extent provided by Federal law for members of recognized or restored Indian tribes.

(E) No funds distributed per capita pursuant to section 13(h) of this Act shall be subject at the time of distribution to Federal, State, and local income taxes; however, income subsequently earned on shares distributed to Members shall be subject to the same Federal, State, and local income taxes as other persons in the State would pay.

(F) Compensation paid to members of the Executive Committee shall be subject to Federal payroll taxes to the extent provided by Federal law for members of tribal councils of recognized or restored Indian tribes.

(3) Any person or other entity which is not exempt from income taxes under provisions of this section shall be liable for all Federal, State, and local income taxes otherwise due regardless of whether they are doing business on the Reservation.

(e) REAL PROPERTY TAXES.—(1) The Reservation and all non-residential buildings, fixtures, and real property improvements owned by the Tribe or held in trust by the United States for the Tribe on the Reservation shall be exempt from all property taxes levied by the State or by any political subdivision of the State. If the Tribe owns a partial interest in property or a business, the property tax exemption provided in this section is applicable to the extent of the Tribe's interest.

(2) Single and multi-family residences, including mobile homes, that are situated on the Reservation shall be exempt from all property taxes levied by the State or by any political subdivision of the State, if they are owned by the Tribe, Members, or Tribal Trust Funds and meet the requirements of the State implementing act concerning the ownership and occupation of single and multifamily residences.

(3) All buildings, fixtures, and real property improvements located on the Reservation which are not exempt from real property taxes under subsections (e)(1) and (e)(2) of this section, shall be subject to all property taxes levied by the State or any political subdivision of the State to the same extent that similar buildings, fixtures, or improvements are assessed and taxed elsewhere in the same jurisdiction. However, the underlying land or leasehold in the land shall not be subject to real property taxes. All buildings, fixtures, and improvements subject to real property taxes shall be eligible for any tax abatement or temporary exemption allowed new business investments to the same extent as similar properties qualify for exemption or abatement in the same county.

(4) The Tribe is authorized to levy taxes on buildings, fixtures, improvements, and personal property located on the Reservation, even though such properties may be exempt from property taxation by the State or its subdivisions, and may use such tax revenues for appropriate tribal purposes. The Tribe may also exempt or abate any such taxes. York and Lancaster Counties and the South Carolina Tax Commission will provide in accordance with the Settlement Agreement the necessary assistance to the Tribe if the Tribe chooses to assess tribal property taxes as if they were property taxes imposed by a political subdivision.

(5) Real property and improvements owned by the Tribe or Members, or both, and not located on the Reservation shall be subject to all property taxes levied by the State, the county, the school district, special purpose districts, and other political subdivisions where such property is located.

(6) To the extent that any non-Reservation real property held in trust by the Secretary is not taxable for property tax purposes, it shall be subject to the payment of a fee or fees in an amount equivalent to the real property tax that would have been paid to the applicable taxing authority had the property not been held in trust.

(f) PERSONAL PROPERTY TAXES.—(1) For a period of 99 years after the effective date of this Act, all personal property owned by the Tribe and used solely on the Reservation shall be exempt from personal property taxes. During such period motor vehicles owned by the Tribe shall be exempt from personal property taxes even if used off the Reservation.

(2) All personal property owned by Members shall be subject to personal property taxes levied by the State or any political subdivision of the State where the property is deemed to be located.

(3) All personal property located on the Reservation which is not exempt from personal property taxes under subsection (f)(1) of this section shall be subject to personal property taxes levied by the State or by any political subdivision of the State encompassing the Reservation to the same extent that similar personal property is assessed and taxed elsewhere in the jurisdiction.

(4) For purposes of subsections (e) and (f) of this section, the determination of whether the Tribe is the owner of property shall be made in the same manner as is used by the State for other taxpayers for State property tax purposes.

(g) LEVY AGAINST PROPERTY FOR FAILURE TO PAY PROPERTY TAXES.—(1) Subject to perfected security interests, if any person or entity (referred to in this subsection as the "taxpayer") who is subject to property taxes under subsections (e) and (f) of this section fails to pay such taxes, the appropriate taxing authority for the county or other political subdivision shall have the power to levy against personal property subject to personal property taxes owned by the taxpayer within the county, on or off the Reservation, in order to satisfy the taxes due.

(2) If this levy against the personal property is not sufficient to satisfy the tax lien, the county or other political subdivision may certify the deficiency to the State and the State may levy against other taxable property of the taxpayer in the State and remit any proceeds to the county or appropriate taxing authority which is owed the tax.

(3) If the county or other political subdivision cannot satisfy its lien, it may require the Tribe to cease allowing the taxpayer to do business on the Reservation.

(4) If the taxpayer is in bankruptcy, the bankruptcy statutes shall apply to this section.

(5) The State or any political subdivision may not seize real property located on the Reservation.

(h) VEHICLE LICENSE FEES.—The Tribe and its Members shall be subject to all license and registration fees and requirements, all periodic inspection fees and requirements, and all fuel taxes imposed by Federal, State, and local governments on motor vehicles, boats, and airplanes, and other means of conveyance.

(i) SALES AND USE TAXES.—(1) The Tribe, its Members, and the Tribal Trust Funds shall be liable for the payment of all State and local sales and use taxes to the same extent as any other person or entity in the State, except as provided in this section.

(2) Purchases made by the Tribe for tribal government functions during the period of 99 years from the effective date of this Act shall be exempt from State and local sales and use taxes.

(3) Catawba pottery and artifacts made by Members and sold on or off the Reservation by the Tribe or Members shall be exempt from State and local sales and use tax.

(4)(A) During the period of 99 years from the effective date of this Act, the sale on the Reservation of all other items, whether made on or off the Reservation, shall be exempt from State and local sales and use taxes, but shall be subject to a special tribal sales tax levied by the Tribe equal to the State and any local sales tax that would be levied in the jurisdiction encompassing the Reservation but for this exemption.

(B) The South Carolina sales and use tax laws, regulations, and rulings shall apply to the special tribal sales tax, and the special tribal sales tax must be administered and collected by the South Carolina Tax Commission in accordance with the Settlement Agreement.

(C) In accordance with the Settlement Agreement, the South Carolina Tax Commission will separately account for the special tribal sales tax, and the State Treasurer will remit the special tribal sales tax revenues periodically to the Tribe at no cost to the Tribe.

(D) The tribal sales tax shall not apply to retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are $100 or less. In such case, the State sales tax shall apply.

(E) The Tribe shall impose a tribal use tax on the storage, use, or other consumption on the Reservation of tangible personal property purchased at retail outside the State when the vendor does not collect the tax. However, any use taxes which are collected by a vendor which is not located in the State will be subject to State use taxes and the use tax shall be remitted to the State and not the Tribe. Use taxes not collected by the vendor and remitted to the State shall be subject to the Tribal use tax and shall be collected directly by the Tribe.

(j) PAYMENTS IN LIEU OF TAXES.—The Tribe shall pay a fee in lieu of school taxes. That fee shall be determined by the county or other appropriate taxing authority in the same manner and shall be the same amount that is paid by students from outside the county entering schools in the county. Fees payable by the Tribe shall be reduced by any funds received under the Act of September 30, 1950 (Public Law 874, 81st Congress; 20 U.S.C. 236 et seq.; commonly referred to as the "Impact Aid Act") pursuant to section 4(g) of this Act or any other Federal funds designed to compensate school districts for loss of revenue due to the non-taxability of Indian property. Any fee in lieu of school taxes paid on behalf of a child under this section shall be excluded from Federal and State income of the child or his family for Federal and State income tax purposes.

(k) ESTATE TAXES.—Members shall be liable for payment for all estate and inheritance taxes, except, however, that the undistributed share of any member in the Catawba Per Capita Payment Trust Fund shall be exempt from Federal and State estate and inheritance taxes.

(l) ELIGIBILITY FOR CONSIDERATION TO BECOME AN ENTERPRISE ZONE OR GENERAL PURPOSE FOREIGN TRADE ZONE.—Notwithstanding the provisions of any other law or regulation, the Tribe shall be eligible to become, sponsor and/or operate (1) an "enterprise zone" pursuant to 42 U.S.C. 11501–11505 or any other applicable Federal (or State) laws or regulations; or (2) a "foreign-trade zone" or "subzone" pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u) and the regulations thereunder, to the same extent as other federally recognized Indian tribes.

SEC. 19. GENERAL PROVISIONS.

(a) GENERAL APPLICABILITY OF STATE LAW.—The Tribe, its Members, and any lands, natural resources, or other property owned by the Tribe or its Members (including any land or natural resources or other property held in trust by the United States or by any other person or entity for the Tribe) shall be subject to the civil, criminal, and regulatory jurisdiction of the State, its agencies and political subdivisions other than municipalities, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person, citizen or land in the State except as otherwise expressly provided in this Act and by the State implementing legislation.

(b) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—The provisions of any Federal law enacted after the date of enactment of this Act shall not apply in the State if such provision would materially affect or preempt the application of the laws of the State, including application of the laws of the State applicable to lands owned by or held in trust for Indians, or Indian Nations, tribes or bands of Indians. However, such Federal law shall apply within the State if the State grants its approval by a law or joint resolution enacted by the General Assembly of South Carolina and signed by the Governor.

(c) SEVERABILITY.—If any of the provisions of sections 4(a), 5 or 6 of this Act are held invalid by a court, then all of this Act is invalid. Should any other section of this Act be held invalid by a court, the remaining sections of this Act shall remain in full force and effect.

(d) INTERPRETATION CONSISTENT WITH SETTLEMENT AGREEMENT.—Wherever possible, this Act shall be construed in a manner consistent with the Settlement Agreement. In the event of a conflict between the provisions of this Act and the Settlement Agreement, the terms of this Act shall govern. The Settlement Agreement shall be maintained on file and available for public inspection at the Department of the Interior.

SEC. 20. EFFECTIVE DATE.

The provisions of this Act shall become effective upon the transfer of the Existing Reservation to the Secretary.

WOFFORD (AND SPECTER) AMENDMENT NO. 539

Mr. WOFFORD (for himself and Mr. SPECTER) proposed an amendment to the bill S. 1134, supra, as follows:

On page 149, between lines 7 and 8, insert the following:

SEC. 5002A. EXTENSION OF AUTHORITY TO COLLECT FEE.

The third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) is amended by striking paragraph (3).

BREAUX (AND WALLOP) AMENDMENT NO. 540

Mr. BREAUX (for himself and Mr. WALLOP) proposed an amendment to the bill S. 1134, supra, as follows:

Section 9503(b)(6) of the Internal Revenue Code of 1986, as added by section 8244(b)(6), is amended to read as follows:

"(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

"(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

"(i) the tax imposed by section 4081 on diesel fuel used in any train, and

"(ii) so much of the nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)) as are attributable to 2.5 cents of the Highway Trust Fund financing rate.

"(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the amount paid from the Highway Trust Fund under subsection (c)(6), the Highway Trust Fund financing rate shall be treated as being 2.5 cents less than the otherwise applicable rate."

LIEBERMAN (AND OTHERS) AMENDMENT NO. 541

Mr. LIEBERMAN (for himself, Mr. DORGAN, Mr. MACK, and Mr. COATS) proposed an amendment to the bill S. 1134, supra, as follows:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) FINDINGS.—The Senate finds that—

(1) The crisis of poverty, high unemployment, out-migration, and job loss in America's inner-cities, rural areas and Indian reservations demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many U.S. inner cities and rural areas. This, in turn, has led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small- and medium-sized businesses, which create the majority of new jobs in the U.S. economy, to locate and invest in poor areas is one of the keys to revitalizing urban and rural America;

(4) Enterprise Zones will help attract businesses to build and grow in poor areas; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) The decline of small industry in rural areas has caused thousands of people to leave such areas, thus hastening the decay of rural communities and leaving the elderly in particular stranded without the help of family and younger neighbors;

(6) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful, having generated capital investments in poor neighborhoods in excess of $28 billion and having created more than 258,000 jobs; and

(7) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

(b) DEFINITIONS.—

(1) The term 'enterprise zone' means any economically distressed urban area, rural areas, or Indian reservation designated by the secretaries of Housing and Urban Development, Agriculture or Interior for special regulatory and tax treatment, and for the targeting of Federal, state, and local programs for the purposes of providing economic revitalization, economic development, and job creation;

(2) The term 'empowerment zone' means any designated enterprise zone which is designated to receive the full package of regulatory and tax relief and targeted programs as provided for by the enterprise zone program; and

(3) The term 'enterprise community' means any area eligible for enterprise zone designation and ultimately designated by the Secretaries of Housing and Urban Development, Agriculture, or the Interior but does not receive the full package regulatory relief, tax relief and targeted programs.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that

(1) enterprise zones are a vital, proven tool for inner-city, rural, and Indian reservation revitalization and that Congress should adopt Federal enterprise zone legislation;

(2) to insure cooperation and coordination among Federal agencies and to provide targeted regulatory relief, such legislation shall include the establishment of an Enterprise Board to develop the selection criteria and to waive any provision of Federal law or regulation administered by the Secretary of the Departments of Housing and Urban Development, Agriculture, Health and Human Services, Labor, or Education, if the Board determines the waiver is necessary for achievement of the comprehensive strategic plan of an enterprise zone;

(3) to adequately and substantially address the crisis in urban and rural America, such legislation shall include at least 75 empowerment zones; and

(4) each empowerment zone shall include each of the following provisions:

(A) Enterprise Grants for implementing local coordinated strategic plans such as:

(1) creating new, coordinated delivery systems for relevant government services;

(2) creating community lending or microenterprise loan funds;

(3) providing technical assistance, entrepreneurial support, workforce skill programs, and job-search and job matching networks in the labor market;

(4) leveraging private matching support; and

(5) matching funds for community development corporations;

(B) Community Policing Grants to increase police presence, expand cooperative efforts between law enforcement and the community, and to assure public safety;

(C) Innovative programs and zone priority investments of existing Federal agency funds targeted towards empowerment zones;

(D) Tax incentives aimed at reducing both capital and labor costs associated with operation of a business in an empowerment zone;

(E) Tax incentives aimed at attracting equity investments, including venture and seed capital, in start-up or small enterprise zone businesses; and

(F) Tax incentives to encourage the hiring and training of economically disadvantaged individuals;

(5) Because the migration of jobs from rural areas has caused many families to migrate too, the indications of distress are different for rural than for urban areas. Specifically, in determining whether a rural area is eligible for an enterprise zone, the factors shall include job loss and out-migration, rather than just the poverty rate, which is an appropriate factor for urban areas.

BRADLEY (AND OTHERS) AMENDMENT NO. 542

Mr. BRADLEY (for himself, Mr. HOLLINGS, Mr. COATS, Mr. MCCAIN, Mr. ROBB, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1134, supra, as follows:

At the appropriate place insert the following:

SEC. . LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO

"LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY

"SEC. 1101. (a) SEPARATE ENROLLMENT.—

"(1) Notwithstanding any other provision of law, when—

"(A) any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations; or

"(B) any revenue bill containing a tax expenditure provision,

passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of appropriation or tax expenditure provision of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

"(A) shall be enrolled without substantive revision;

"(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this title); and

"(C) shall bear the designation of the measure of which it was an item of appropriation or tax expenditure provision prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

"(b) PREPARATION AND PRESENTMENT.—A bill or joint resolution enrolled pursuant to subsection (a)(1) with respect to an item of appropriation or tax expenditure provision shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) DEFINITIONS.—For purposes of this title—

"(1) the term 'item of appropriation' means any numbered section and any unnumbered paragraph of—

"(A) any general or special appropriation bill; and

"(B) any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) the term 'tax expenditure provision' means a division of a bill that amends current law or is free standing and that is scored by the Joint Committee on Taxation as losing revenue over the 5-year period after the provision takes effect.".

(b) EFFECTIVE PERIOD.—The amendment made by subsection (a) shall apply to bills and joint resolutions agreed to by the Congress during the 103d Congress.

BRYAN (AND OTHERS) AMENDMENT NO. 543

Mr. BRYAN (for himself, Mr. REID, Mr. KERRY, Mrs. BOXER, Mr. FEINGOLD, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1134, supra, as follows:

Beginning on page 32, strike line 19 and all that follows through page 34, line 10, and insert the following new section:

SEC. 1111. ELIMINATION OF WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—The National Wool Act of 1954 (7 U.S.C. 1781 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(a)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) TRANSITION PROVISIONS.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply beginning with the marketing year beginning January 1, 1994.

DOMENICI (AND OTHERS) AMENDMENT NO. 544

Mr. DOMENICI (for himself, Mr. NUNN, Mr. MCCAIN, Mr. BENNETT, Mr. WARNER, and Mr. ROBB) proposed an amendment to the bill S. 1134, supra, as follows:

At the appropriate place, insert the following:

SEC. . DISCRETIONARY CAP EXTENSION.

(a) DISCRETIONARY SPENDING.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) with respect to fiscal year 1994—

"(i) for the defense category: $264,051,000,000 in new budget authority and $279,262,000,000 in outlays;

"(ii) for the international category: $21,721,000,000 in new budget authority and $21,660,000,000 in outlays; and

"(iii) for the domestic category: $215,192,000,000 in new budget authority and $237,835,000,000 in outlays;

"(E) with respect to fiscal year 1995—

"(i) for the defense category: $262,624,000,000 in new budget authority and $272,744,000,000 in outlays;

"(ii) for the international category: $21,315,000,000 in new budget authority and $21,416,000,000 in outlays; and

"(iii) for the domestic category: $222,348,000,000 in new budget authority and $247,112,000,000 in outlays;

(b) DEFINITIONS.—Paragraph (4) of section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(4) The term 'category' means for fiscal years 1991 through 1995 any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the 3 categories shall be those so designated in the

joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.".

BUMPERS AMENDMENT NO. 545

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

On page 389 insert the following prior to line 8:

SEC. 7803. STATE OPTION TO PROVIDE THAT CERTAIN PAYMENTS UNDER AFDC ARE CONDITIONED ON RECEIPT OF IMMUNIZATIONS.

(a) IN GENERAL.—Section 402 (42 U.S.C. 602) is amended—

(1) in paragraph (44), by striking "; and" and inserting a semicolon;

(2) in paragraph (45), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(46) at the option of the State, provide that if a family receiving aid to families with dependent children for any month includes a child under the age of 6 who has not received appropriate immunizations (as determined by the State), the State will take actions to encourage the timely immunization of such child including, but not limited to, reducing the total benefits received by such family for such month by all or a portion of the benefits allocable to the parent or guardian of such child and either—

"(A) placing all or a portion of such amount in an account until family demonstrates to the State that such child has been appropriately immunized; or

"(B) using all or a portion of such amount to provide services to such family intended to ensure that such child receives appropriate immunizations.".

(b) STATE PROGRAMS TO ENCOURAGE APPROPRIATE IMMUNIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this subsection as the "Secretary") shall provide for the establishment of programs intended to ensure the appropriate immunization of children to be operated in the States electing to take actions to encourage the timely immunization of children described in section 402(a)(46) of the Social Security Act.

(2) PAYMENTS TO STATES AND LIMITS ON FUNDING.—

(A) PAYMENTS TO STATES.—Except as provided in subparagraph (B), the Secretary shall pay to each State conducting a program under this subsection for each quarter in which such program is conducted an amount equal such State's Federal percentage (as determined under section 403(a) of the Social Security Act) of the expenditures incurred by such State during such quarter in conducting such program.

(B) LIMITS ON FUNDING.—In conducting programs under this subsection, the Secretary shall limit the total amount of the Federal share of expenses incurred under title IV and section 1903 of the Social Security Act to no more than $250,000 for each State in any year.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall become effective on the date of the enactment of this Act.

BUMPERS AMENDMENT NO. 546

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill S. 1134, supra as follows:

On page 337, beginning with line 1, strike all through page 389, line 7, and insert the following:

SEC. 7802. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such payment to a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)."

(b) STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396a) is amended by adding after paragraph (58) the following new paragraph:

(59) provide for the establishment of a State vaccine bulk purchase program for the purchase of pediatric vaccines." and by adding at the end of the following new subsection:

(z)(1) For purposes of section 1396 a (a)(59), a vaccine replacement program described in this subsection is a vaccine bulk purchase program under which a State with a State plan approved under this title contracts with each manufacturer of childhood vaccines selling such vaccines in the State to—

"(A) supply doses of childhood vaccines to providers (or in the case of a State medicaid vaccine program, the State) administering such vaccines to individuals eligible to receive medical assistance under the State plan and replace such vaccines as needed; and

"(B) charge the State agency for such doses of childhood vaccine the price under the most recent bid (determined once such a bid price is made public) submitted by a manufacturer which receives the Centers for Disease Control and Prevention contract with respect to the childhood immunization program under the Public Health Services Act, plus a reasonable fee to cover shipping and handling of returns for such doses.

(2) Any manufacturer of childhood vaccines selling such vaccines in a State which does not participate in a vaccine replacement program described in paragraph (1) which is operated in such State shall be ineligible to bid for Centers for Disease Control and Prevention Immunization contracts under section 317(j) of the Public Health Services Act."

(c) DEFINITION OF STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396d) is amended by adding at the end of the following new subsection:

(t) Vaccine Bulk Purchase Program

The term "vaccine bulk purchase program" means a State program which purchases vaccines at prices negotiated by the Centers for Disease Control and Prevention's childhood immunization program and distributes such vaccines free of charge to entities providing medical assistance to individuals eligible for such medical assistance under this title."

(d) AGREEMENT WITH THE STATE.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27) is amended—

(1) by striking "under the State plan", and inserting "under the State plan and with any entity that is a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(e) CDC PRICE PLUS CPI.—To the extent that, at the date of enactment, a specific vaccine is purchased under contract with the Centers for Disease Control and Prevention as provided in the Public Health Service Act, no bid for the purchase of such vaccine shall be accepted by the Centers for Disease Control and Prevention if the price per dose of such vaccine exceeds the price in effect on the date of enactment increased by the percentage increase in CPI from date of the contract in effect on the date of the enactment to the date of the contract. This provision shall be in effect for contracts made in Fiscal Year 1994 through Fiscal Year 1998.

(f) MULTIPLE SUPPLIERS.—The Public Health Service provisions relating to the Centers for Disease Control and Prevention purchase of vaccine may not be construed as prohibiting the Secretary from entering into a contract with each manufacturer of a vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SECTION 7803. STATE OPTION REGARDING VACCINE PURCHASE.

(a) STATE PURCHASES.—Notwithstanding any other provision of law, any state for the purpose of administering a pediatric vaccine may purchase the vaccine from a manufacturer of the vaccine at the price in effect under the federal vaccine procurement process under section 317 of the Public Health Service Act, for children who are 18 years of age or younger and who are:

(1) uninsured with respect to health insurance policies or plans (including group health plans or prepaid health plans and including employee welfare benefit plans under the Employee Retirement Income Security Act of 1974), or covered under such a policy or plan, but under the policy or plan benefits are not available with respect to immunizations, and (B) a member of a family with an income of less than 75 percent of the State's median income; or

(2) Indians.

(b) REQUIREMENTS.—A State may purchase pediatric vaccines pursuant to this subsection only if the following conditions are met:

(1) The State agrees that the vaccines will only be used to provide immunizations for the children described in this section.

(2) The State provides to the Secretary, in advance of the negotiations under the federal procurement process for federal purchase of vaccines under Section 317 of the Public Health Service Act, information relating to the specific quantities of pediatric vaccines the State wishes to purchase and such other information as the Secretary determines to be necessary to provide for quantities of pediatric vaccines for the State to purchase pursuant to this subsection.

MCCONNELL (AND OTHERS) AMENDMENT NO. 547

Mr. MCCONNELL (for himself, Mr. LOTT, and Mr. GRASSLEY) proposed an amendment to the bill S. 1134, supra, as follows:

Strike section 7953.

GRAHAM (AND OTHERS) AMENDMENT NO. 548

Mr. GRAHAM (for himself, Ms. MOSELEY-BRAUN, and Mr. HARKIN) proposed an amendment to the bill S. 1134, supra, as follows:

Insert the following:

Page 166, beginning with line 3, strike all through page 178, line 20.

On page 181, beginning with line 1, strike all through page 184, line 13.

On page 185, beginning with line 17, strike all through page 187, line 6.

On page 212, beginning with line 7, strike all through page 214, line 24.

On page 524, line 13, strike "35 percent" and insert "36 percent".

On page 524, line 24, strike "35 percent" and insert "36 percent".

On page 525, lines 2 and 3, strike "65 percent" and insert "64 percent".

On page 525, line 6, strike "35 percent" and insert "36 percent".

On page 525, line 9, strike "35 percent" and insert "36 percent".

BROWN (AND OTHERS) AMENDMENT NO. 549

(Ordered to lie on the table.)

Mr. BROWN (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

On page 620, strike lines 12 through 21, and insert the following:

(3) Section 9502(b)(3) is amended by inserting "and the deficit reduction rate" after "financing rate".

(4) Section 9503(b)(4)(B) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(5) Section 9503(c)(4)(D) is amended by inserting "and the deficit reduction rates under such sections to the extent such rates do not exceed 4.3 cents per gallon" after "such sections".

(6) Section 9503(c)(5)(B) is amended by inserting "and the deficit reduction rate under such section to the extent such rate does not exceed 4.3 cents per gallon" after "such section".

(7) Section 9503(c)(6)(D) is amended by inserting "and the deficit reduction rate to the extent such rate does not exceed 4.3 cents per gallon" after "financing rate".

(8) Section 9506(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

BUMPERS AMENDMENT NO. 550

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill S. 1134, supra, as follows:

On page 863, between lines 13 and 14, insert the following new section:

SEC. 12205. PERFORMANCE BASED GRANT PROGRAM.

(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Center for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Health and Human Services shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 65 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount;

(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount;

(2) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary of Health and Human Services shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

(c) DEFINITION.—For purposes of this section, the term "fully immunized" means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

BRYAN (AND REID) AMENDMENT NO. 551

Mr. BRYAN (for himself and Mr. REID) proposed an amendment to the bill S. 1134, supra, as follows:

On page 560, line 1, strike all through page 575, line 24, and insert:

SEC. 8227. REPEAL OF SECTION 936 CREDIT.

(a) REPEAL.—

(1) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(i) TERMINATION.—No credit shall be allowed under this section for any taxable year beginning after December 31, 1993."

(2) CONFORMING AMENDMENT.—Section 27(b) is amended by adding at the end the following new sentence: "No credit shall be allowed under this subsection for any taxable year beginning after December 31, 1993."

(b) SENSE OF THE SENATE REGARDING USE OF THE RESULTING INCREASE IN REVENUES.—It is the sense of the Senate that the increase in revenues resulting from the repeal made by subsection (a) should be used to limit the reductions in spending under the medicare program under title XVIII of the Social Security Act otherwise made by amendments made by subtitle A of title VII of this Act.

REID (AND BRYAN) AMENDMENT NO. 552

Mr. REID (for himself and Mr. BRYAN) proposed an amendment to the bill S. 1134, supra, as follows:

At the end of subtitle A of title I, add the following new section:

SEC. 1112. GROSS SALES LIMITATION FOR AGRICULTURAL PAYMENTS.

The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following new section:

"SEC. 1001F. GROSS SALES LIMITATION.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, a person (as defined pursuant to section 1001(5)) who has an average amount of qualifying gross sales during the 5 preceding crop years in excess of $500,000, as determined by the Secretary, shall not be eligible to receive a payment described in paragraph (1) or (2) of section 1001.

"(b) DEFINITION OF QUALIFYING GROSS SALES.—For purposes of this section, the term 'qualifying gross sales' means—

"(1) if a majority of the annual income of the person is received from farming, ranching, and forestry operations, the gross sales from the farming, ranching, and forestry operations of the person; and

"(2) if less than a majority of the annual income of the person is received from farming, ranching, and forestry operations, the gross sales of the person from all sources.".

REID AMENDMENT NO. 553

Mr. REID proposed an amendment to the bill S. 1134, supra, as follows:

At the end of part I of subtitle A of title VII, add the following new section:

SEC. 7109. INCREASE IN INPATIENT HOSPITAL DEDUCTIBLE FOR ANY INDIVIDUAL WHOSE ANNUAL ADJUSTED GROSS INCOME EQUALS OR EXCEEDS $100,000 ($125,000 IN THE CASE OF AN INDIVIDUAL FILING A JOINT RETURN).

(a) IN GENERAL.—Section 1813(b)(1) (42 U.S.C. 1395e(b)(1)) is amended—

(1) by striking "(1) The inpatient" and inserting "(1)(A) Except as provided in subparagraph (B), the inpatient";

(2) by adding at the end the following new subparagraph:

"(B) In the case of an individual who has adjusted gross income (within the meaning of section 62 of the Internal Revenue Code of 1986) equal to or exceeding $100,000 ($125,000, in the case of an individual filing a joint return under section 6013 of such Code) for a taxable year ending with or within a calendar year, the inpatient hospital deductible under this paragraph shall be $2,000 for the succeeding calendar year. ".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to inpatient hospital services furnished on or after January 1, 1994.

BRADLEY AMENDMENT NO. 554

(Ordered to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to the bill S.1134, supra, as follows:

At the appropriate place insert the following:

SEC. . LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO

"LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY

"SEC. 1101. (a) SEPARATE ENROLLMENT.—

"(1) Notwithstanding any other provision of law, when—

"(A) any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations; or

"(B) any revenue bill containing a tax expenditure provision,

passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of appropriation or tax expenditure provision of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

"(A) shall be enrolled without substantive revision;

"(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this title); and

"(C) shall bear the designation of the measure of which it was an item of appropriation or tax expenditure provision prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

"(b) PREPARATION AND PRESENTMENT.—A bill or joint resolution enrolled pursuant to subsection (a)(1) with respect to an item of appropriation or tax expenditure provision shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both House of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) DEFINITIONS.—For purposes of this title—

"(1) the term 'item of appropriation' means any numbered section and any unnumbered paragraph of—

"(A) any general or special appropriation bill; and

"(B) any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) the term 'tax expenditure provision' means a division of a bill that amends current law or is free standing and that is scored by the Joint Committee on Taxation as losing revenue over the 5-year period after the provision takes effect.".

(b) EFFECTIVE PERIOD.—The amendment made by subsection (a) shall apply to bills and joint resolutions agreed to by the Congress during the 103d Congress.

DECONCINI (AND OTHERS) AMENDMENT NO. 555

Mr. DECONCINI (for himself, Mr. MITCHELL, Mr. SASSER, and Mr. FEINGOLD) proposed an amendment to the bill S. 1134, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XIV—DEFICIT RETIREMENT ACCOUNT

SEC. 14001. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This part may be cited as the Deficit Retirement Account Act of 1993.

(b) PURPOSE.—The Congress declares that it is essential to guarantee that the net deficit reduction achieved by this Act is dedicated exclusively to reducing the deficit.

SEC. 14102. ESTABLISHMENT OF DEFICIT RETIREMENT ACCOUNT.

(a) ESTABLISHMENT OF THE ACCOUNT.—

Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

1115. Deficit retirement account.

(a) There is established a separate account in the Treasury, known as the Deficit Retirement Account, into which the deficit reduction achieved by the Omnibus Budget Reconciliation as called for in Section 1115(b).

(b) Immediately upon enactment of the Omnibus Budget Reconciliation Act of 1993, any increases in total revenues resulting from enactment of such Act, shall be deposited by the Secretary of the Treasury on a daily basis into the Deficit Retirement Account. In addition, on a daily basis, the Secretary of the Treasury shall deposit into such account an amount equivalent to the sum of net deficit reduction achieved as a result of all spending reductions resulting from such Act. The cumulative Fiscal Year amounts for the combination of all revenue increases and spending reductions shall be equal to:

(1) for fiscal year 1994, $55,878,000,000;

(2) for fiscal year 1995, $71,320,000,000;

(3) for fiscal year 1996, $99,102,000,000;

(4) for fiscal year 1997, $133,737,000,000;

(5) for fiscal year 1998, $156,066,000,000;

(c) Notwithstanding any other provision of law, the amounts in the Deficit Retirement Account—

(1) shall not be available for appropriation, obligation, expenditure, or transfer, except as specified in subsection (c)(2) below

(2) shall be used exclusively to redeem maturing debt obligations of the Treasury of the United States held by foreign governments in the amounts specified for each fiscal year in subsection (b)

(3) shall be excluded from, and shall not * * * into account for purposes of, any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901–922).

"(d) Establishment of and transfers to the Deficit Retirement Account shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993 and/or any other provision of law.

(b) LISTING OF THE ACCOUNT AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Deficit Retirement Account.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Deficit Retirement Account, including a separate statement of amounts in and Federal debt redeemed by that Account.".

SASSER (AND OTHERS) AMENDMENT NO. 556

Mr. SASSER (for himself, Mr. MITCHELL, and Mr. DODD) proposed an amendment to the bill S. 1134, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XIV.—ENFORCEMENT PROCEDURES.

Part A—Extention of Budget Enforcement

SEC. 14001. PURPOSE.

The Congress declares that it is essential to——

(1) preserve the deficit reduction achieved by this Act;

(2) extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974;

(3) extend the pay-as-you-go enforcement system; and

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus achieved by this Act and created under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14002. DISCRETIONARY SPENDING LIMITS.

(a) DEFINITION OF "DISCRETIONARY SPENDING LIMIT".—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (D) by striking the word "and"; and

(2) by inserting after subparagraph (E) the following:

"and

"(F) with respect to fiscal years 1996, 1997, and 1998, for the discretionary category, the amounts set forth for those years in section 12(b)(1) of House Concurrent Resolution 64 (One Hundred Third Congress);".

(b) POINT OF ORDER IN THE SENATE.—Section 601(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.".

(c) CONFORMING AMENDMENTS.—(1) Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "FISCAL YEARS 1991–1995 ENFORCEMENT.—" and inserting "FISCAL YEARS 1991–1998 ENFORCEMENT.—";

(B) in subsection (b)(1)—

(i) in the matter before subparagraph (A), by—

(I) striking "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995" and inserting "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995" and inserting "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1998";

(ii) in paragraph (1)(B), by inserting at the end thereof the following new clause:

"(iii) For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103–48."

(iii) in the matter before subparagraph (A) in paragraph (2) by—

(I) striking "When OMB submits a sequestration report under section 254 (g) or (h) for

fiscal years 1991, 1992, 1993, 1994, or 1995" and inserting "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "for the fiscal year and each succeeding year through 1995," and inserting "for the fiscal year and each succeeding year through 1998,";

(iv) in paragraph (2)(D)(i), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year,";

(v) in paragraph (2)(E), by—

(I) striking the final word "and" in subparagraph (ii); and

(II) inserting before the final period the following:

"; and

"(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for any one fiscal year) equal to 0.1 percent of the adjusted discretionary spending limit on new budget authority for that fiscal year"; and

(vi) in paragraph (2)(F), by inserting immediately before the final period the following: ", and not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for the fiscal year in fiscal year 1996, 1997, or 1998".

(2) REPORTS.—Sections 254(d)(2) and 254(g)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 are each amended by striking "1995" and inserting "1998".

(3) EXPIRATION.—(A) Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, sections 250, 251, 252, and 254 through 258C of that Act shall expire on September 30, 1998.

(B) Section 607 of the Congressional Budget Act of 1974 is amended by striking "shall apply to fiscal years 1991 to 1995" and inserting "shall apply to fiscal years 1991 to 1998".

SEC. 14003. ENFORCING PAY-AS-YOU-GO.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking "FISCAL YEARS 1992–1995 ENFORCEMENT." and inserting "FISCAL YEARS 1992–1998 ENFORCEMENT.";

(2) in subsection (d), by striking "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995" both places that it appears and inserting "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998" both places; and

(3) in subsection (e), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year from 1991 through 1998,".

(b) Section 254(g)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "1998".

(c) Upon enactment of this Act, the Director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.

SEC. 14004. EXERCISE OF RULE-MAKING POWERS.

The Congress enacts the provisions of this part—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such these provisions shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

GRAMM (AND OTHERS) AMENDMENT NO. 557

Mr. GRAMM (for himself and Mrs. HUTCHISON) proposed an amendment to the bill, S. 1134, supra, as follows:

At the appropriate place, insert the following:

SEC. . RESTORATION OF MAXIMUM DEFICIT AMOUNTS.

(a) MAXIMUM DEFICIT AMOUNTS.—

(1) AMOUNTS.—Section 601(a)(1) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) with respect to fiscal year 1994, $253,800,000,000;

"(E) with respect to fiscal year 1995, $236,900,000,000;

"(F) with respect to fiscal year 1996, $205,000,000,000;

"(G) with respect to fiscal year 1997, $192,600,000,000; and

"(H) with respect to fiscal year 1998, $201,900,000,000.".

(2) DEFINITION.—(A) Section 250(c)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(i) striking "terms 'maximum deficit amount' and" and inserting "term"; and

(ii) striking "sections 251 and 252" and inserting "section 251".

(B) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following:

"(22)(A) The term 'maximum deficit amount' means the amount set forth in section 601(c)(1) of the Congressional Budget Act of 1974.

"(B) For purposes of this paragraph, the term 'deficit' means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. In calculating the deficit for purposes of section 253 of such Act (notwithstanding section 710(a) of the Social Security Act or any other provision of law), for any fiscal year, the receipts of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality.".

(3) NO MARGIN OR ADJUSTMENTS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "if it exceeds the margin";

(B) in subsection (b)—

(i) in paragraph (1) by inserting "and" after the semicolon:

(ii) in paragraph (2) by striking "; and" and inserting a period;

(iii) by striking paragraph (3) and the text that follows; and

(C) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(4) 60 VOTE POINT OF ORDER.—Section 904 of thee Congressional Budget Act of 1974 is amended—

(A) in the second sentence of subsection (c) by striking "and 606(c)" and inserting "605(b), and 606(c)"; and

(B) in the third sentence of subsection (d) by striking "and 606(c)" and inserting "605(b), and 606(c)".

(5) ELIMINATION OF SOCIAL SECURITY DEFICIT.—Not later than October 1, 2000, Congress may adopt budget procedures for the elimination of the non-Social Security deficit by not later than September 30, 2005. The non-Social Security deficit shall be defined as the Federal budget deficit excluding the receipts and outlays of the Social Security Trust Fund.

(6) EXTENSION OF PROCEDURES AND POINTS OR ORDER.—The procedures and points of order provided in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 applicable to the enforcement of the maximum deficit amount for fiscal year 1993 set forth in section 601(a)(1) of the Congressional Budget Act of 1974 shall apply to the enforcement of the maximum deficit amount imposed by the amendment made by paragraph (1) as modified by this subsection and subsection (c).

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection.

"(i) LOOK-BACK SEQUESTER.—

"(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester on July 1 to eliminate the excess.

"(2) PERMANENT SEQUESTER—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

"(4) SEQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection."

BURNS (AND OTHERS) AMENDMENT NO. 558

Mr. BURNS (for himself, Mrs. HUTCHISON, Mr. DOLE, Mr. MCCONNELL, Mr. DURENBERGER, Mr. MACK, Mr. CRAIG, Mr. HATFIELD, Mr. COATS, Mr. SMITH, Mr. GREGG, Mr. BROWN, Mr. THURMOND, Mr. ROTH, Mr. LOTT, Mr.

NICKLES, Mr. WARNER, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 1134, supra, as follows:

At the appropriate place, add the following: "All changes in revenues contained in this bill which raise revenues, shall become effective no earlier than the date of enactment."

BUMPERS AMENDMENT NO. 559

Mr. BUMPERS proposed an amendment to the bill S. 1134, supra, as follows:

On page 863, between lines 13 and 14, insert the following new section:

SEC. 12205. PERFORMANCE BASED GRANT PROGRAM.

(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Center for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Health and Human Services shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 65 percent of all 2 year old residents of the State, $50, multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

(2) As a condition of receiving amounts under this section,

(i) states which combine state and federal funds to reach immunization goals shall agree to reinvest in activities related to improving immunization services that percentage of the payment under (b)(1) which is equal to the federal contribution to immunization services in the State proportional to the State contribution to such services;

(ii) states which verify that State-only funds are responsible for the increase in immunization rates that qualifies such state for payment under (b)(1) may use amounts awarded under this section for other purposes at the State's discretion.

(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary of Health and Human Services shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

(c) DEFINITION.—For purposes of this section, the term "fully immunized" means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three does of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

LIEBERMAN (AND CHAFEE) AMENDMENT NO. 560

Mr. LIEBERMAN (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1134, supra, as follows:

On page 429, between lines 3 and 4, insert:

SEC. . SENSE OF THE SENATE REGARDING PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) FINDINGS.—The Senate finds that:

(1) Low and moderate income families often have difficulty in obtaining affordable mortgage financing.

(2) The mortgage revenue bond provisions of the Internal Revenue Code are an important tool in providing affordable financing for first-time home buyers.

(3) The tax-exempt status of mortgage revenue bonds have enabled State and local housing agencies to finance home mortgages for first-time buyers at rates below conventional market rates. This cost differential enables buyers, who otherwise might not be able to get mortgage financing, to obtain a loan at an affordable rate.

(4) Mortgage revenue bonds are targeted to families with the greatest need. In 1992, the average income of a mortgage revenue bond borrower was 74 percent of median income. Mortgage revenue bonds are only available to buyers who have not owned a home within the past 3 years, earn 115 percent or less of the applicable median income, and buy a principal residence that does not exceed 90 percent of the average home purchase price.

(5) Prior to its expiration in June, mortgage revenue bonds were the only Federal assistance targeted to first-time home buyers. During the past 15 years, mortgage revenue bonds have financed more than 2 million home purchases and accounted for 1 out of every 12 mortgages made to first-time buyers.

(6) In the last decade, mortgage revenue bonds have been scheduled to sunset 7 times, making administration and timing of bond issues extremely difficult and costly. The mortgage revenue bond program lapsed on June 30, underscoring the need for permanent extension.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that mortgage revenue bonds are a vital, proven tool for providing affordable home ownership opportunities for low- and moderate-income families and that Congress should adopt a permanent extension of the mortgage revenue bond program as part of the Internal Revenue Code.

BUMPERS AMENDMENT NO. 561

Mr. BUMPERS proposed an amendment to the bill S. 1134, supra, as follows:

On page 337, beginning with line 1, strike all through page 389, line 7, and insert the following:

SEC. 7802. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such payment to a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection(z)."

(b) STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396a) is amended by adding after paragraph (58) the following new paragraph:

(59) provide for the establishment of a State vaccine bulk purchase program for the purchase of pediatric vaccines." and by adding at the end of the following new subsection:

(z)(1) For purposes of section 1396a(a)(59), a vaccine replacement program described in this subsection is a vaccine bulk purchase program under which a State with a State plan approved under this title contracts with each manufacturer of childhood vaccines selling such vaccines in the State to——

"(A) supply doses of childhood vaccines to providers (or in the case of a State medicaid vaccine program, the State) administering such vaccines to individuals eligible to receive medical assistance under the State plan and replace such vaccines as needed; and

"(B) charge the State agency for such doses of childhood vaccine the price under the most recent bid (determined once such a bid price is made public) submitted by a manufacturer which receives the Centers for Disease Control and Prevention contract with respect to the childhood immunization program under the Public Health Services Act, plus a reasonable fee to cover shipping and handling of returns for such doses.

(2) Any manufacturer of childhood vaccines selling such vaccines in a State which does not participate in a vaccine replacement program described in paragraph (1) which is operated in such State shall be ineligible to bid for Centers for Disease Control and Prevention Immunization contracts under section 317(j) of the Public Health Services Act."

(c) DEFINITION OF STATE VACCINE BULK PURCHASE PROGRAM.—Section 1902 (42 U.S.C. 1396d) is amended by adding at the end of the following new subsection:

(t) VACCINE BULK PURCHASE PROGRAM.—The term "vaccine bulk purchase program" means a State program which purchases vaccines at prices negotiated by the Centers for Disease Control and Prevention's childhood immunization program and distributes such vaccines free of charge to entities providing medical assistance under this title."

(d) AGREEMENT WITH THE STATE.—Section 1902 (a)(27) (42 U.S.C. 1396a(a)(27) is amended——

(1) by striking "under the State plan", and inserting "under the State plan and with any entity that is a manufacturer of a childhood vaccine under a contract with the State pursuant to which the manufacturer participates in a vaccine replacement program described in subsection (z)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(e) CDC PRICE PLUS CPI.—To the extent that, at the date of enactment, a specific vaccine is purchased under contract with the Centers for Disease Control and Prevention as provided in the Public Health Service Act, no bid for the purchase of such vaccine shall be accepted by the Centers for Disease Control and Prevention if the price per dose of such vaccine exceeds the price in effect on the date of enactment increased by the percentage increase in CPI from date of the contract in effect on the date of the enactment to the date of the contract. This provision

shall be in effect for contracts made in Fiscal Year 1994 through Fiscal Year 1998.

(f) MULTIPLE SUPPLIERS.—The Public Health Service provisions relating to the Centers for Disease Control and Prevention purchase of vaccine may not be construed as prohibiting the Secretary from entering into a contract with each manufacturer of a vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 24, 1993, at 9:00 a.m., in closed session, to receive a Joint Chiefs of Staff briefing on current military operations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 24, 1993, at 10:00 a.m. to receive open and closed testimony from the intelligence community on Treaty Doc. 103-1, the START II Treaty.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, June 24, at 10:00 a.m. for a markup on the following items:

LEGISLATION

S. 101, a bill to establish a National Commission on Executive Organization Reform.

S. 404, the Federal Employees Fairness Act.

S. 24, the Independent Counsel Reauthorization Act of 1993.

S. 1130, the Federal Employees Leave Sharing Amendments Act of 1993.

S. 1131, to extend the method of computing the average subscription charges, under section 8906(a) of title 5, United States Code, relating to Federal employee health benefits programs.

H.R. 588, designating a post office facility in Beaver, UT, as the "Abe Murdock United States Post Office."

S. 464, designating a post office facility in Pulaski, TN as the "Ross Bass Postal Office."

H.R. 490, Conveyance of Land to Columbia Hospital for Women.

NOMINATIONS

Roger Johnson, to be Administrator, General Services Administration.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 24, 1993.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 24, 1993, at 10:00 a.m., to hold a hearing on S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil.

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

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be allowed to meet during the session of the Senate on Thursday, June 24, 1993 at 2:30 p.m. on the administration's below-cost timber sale policy.

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

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION AND INDUSTRIAL BASE

Mr. FORD. Mr. President, I ask unanimous consent that the subcommittee on Defense Technology, Acquisition, and Industrial Base of the Senate Armed Services Committee be authorized to meet on Thursday, June 24, 1993, at 3:00 p.m. in open session to receive testimony on the Department of Defense research and development programs for education, environment and medical technology in review of the Defense authorization request for fiscal year 1994 and the future years' Defense program.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 24, 1993, at 2:00 p.m. to hold a hearing on U.S. policy on Ukrainian security.

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

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 24, 1993, at 10:00 a.m. on U.S. environmental technology in the global marketplace.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 24, 1993, to receive testimony on S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

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

SUBCOMMITTEE ON SECURITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, June 24, 1993, at 10:00 a.m. to hold a hearing on private securities litigation.

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

ADDITIONAL STATEMENTS

NAFTA AND A RECENT VISIT TO MEXICO

• Mr. BAUCUS. Mr. President, 3 weeks ago, I visited in Mexico as head of a Montana trade delegation. Today I will report on that visit, and my views of the proposed North American Free-Trade Agreement in light of my experience there.

I met with business, labor, and government leaders in El Paso, Juarez, and Mexico City. I spoke with maquiladora employees, the mayor of Mexico City, Mexico's Commerce Minister and our Ambassador. I came back convinced of two things.

First, the NAFTA is a great opportunity for America. Second, it comes with risks in the environment and labor areas. We need strong side agreements to avoid these risks.

THE NAFTA'S BENEFITS FOR THE UNITED STATES

When you get down to basics, NAFTA will mean fair trade. Today, we have a one-way free-trade agreement with Mexico, in Mexico's favor. Our tariffs on Mexican goods average 4 percent. Over 30 percent of Mexican goods come into the United States duty-free. By contrast, Mexico's tariffs on American products average 10 percent—2½ times as high as ours. By bringing both to zero, the NAFTA will make our one-way free-trade agreement a two-way free-trade agreement.

Second, NAFTA will mean exports. Mexico is already our third largest export market. It trails only Canada and Japan. United States exports to Mexico grew from $12.4 billion in 1987 to $40.6 billion last year. Our billion-dollar trade deficit with Mexico turned into a $5.4 billion surplus. As Mexico grows we will have even more export opportunities.

Third, the NAFTA means jobs. The International Trade Commission reports that it will create a net gain of up to 95,000. Fifteen separate studies agree.

Fourth, the NAFTA means growth. It will permanently raise American GDP by 0.5 percent. That does not sound like much—but in dollar terms it's $25 billion a year, twice as much as the stimulus package we debated last February.

The environmental technology firms who accompanied me to Mexico know what all that means on a very personal level. It means exports. It means jobs, growth, and technological development in Montana.

LEGITIMATE QUESTIONS ON LABOR AND THE ENVIRONMENT

The NAFTA's critics, however, have legitimate concerns. Environmentalists point to the border to warn us of what could happen if stronger environmental protection does not accompany increased trade. I can testify to that myself. Statistics tell us that 55 million gallons of sludge and 24 million gallons of raw sewage flow into the Rio Grande every day.

I walked down to the Rio Grande when I visited El Paso and Juarez. The Rio Grande literally stinks. It is full of sewage, garbage and industrial waste. It is an eyesore and a health hazard. A drainage canal running alongside it, nicknamed "Aguas Negras," or "Black Waters," is even worse. It directly affects the health and safety of American citizens. Infectious hepatitis in El Paso runs at five times our national rate. And as maquiladoras move up the technological ladder and use more industrial chemicals, the problem will only get worse.

Second, labor standards. Again, I can testify to what can happen if stronger enforcement of labor laws does not accompany increased investment.

I visited a family of 10 who live in Juarez. They live in a tin shack with four rooms. No running water or electricity. The two youngest daughters—age 13 and 16—work in U.S.-owned electronics assembly plants, in violation of child labor laws. Their wages support the whole family. Their mother told me that women in the area are routinely fired when they get pregnant.

A maquiladora worker showed me his weekly paycheck. He makes 70 cents an hour. The company is kind enough to come up with an extra 17 cents as a bonus for good attendance if he does not get sick. Again, a U.S.-owned plant.

These are serious problems. And I will not support a NAFTA that threatens to make them worse. We must not use free trade to pit law-abiding American businesses against plants whose costs are lower because their owners tip barrels of hazardous waste into the Rio Grande; or evade not just the United States but the Mexican minimum wage; or fire employees who want to have a baby.

But rejecting the NAFTA will not solve these problems—because they exist today, without the NAFTA. The NAFTA side agreements, in fact, give us our only chance to make progress in these areas. Strong side agreements—creating commissions on the environment and labor with independent secretariats and the right to collect data—can do the job. And as a last resort, governments need to be able to use trade sanctions if negotiations fail.

ROLE OF ROSS PEROT

Once again, the NAFTA's critics in the environmental and labor movements have made some real points. But Ross Perot is another story.

I will give Mr. Perot his due. He is a good salesman. And he has played an important part in making deficit reduction a national priority. But on the NAFTA, it is time to say that the emperor has no clothes.

I have read Mr. Perot's interviews and seen his national "informercial." And he is way off base. His arguments mix a couple of legitimate economic arguments with bogus job loss statistics; irrelevant comments about the national debt and the cost of ads in the New York Times; and a lot of simplistic, fear-mongering one-liners about "giant sucking sounds" to try and discredit the NAFTA regardless of what is in it.

A comment he made to the Washington Post a few weeks ago is a perfect example. He said: "Go across the Texas border and look at all those plants in Mexico. You're looking at tomorrow."

Well, that is just what I did. I went across the Texas border. I looked at those plants. And I was not looking at tomorrow—I was looking at today.

Companies are moving today. About 600,000 American jobs have already gone to Mexico without the NAFTA. They will continue moving whether the NAFTA passes or not. The same is true of border pollution and labor problems. They exist today without the NAFTA. And if we reject the NAFTA, we will lose our chance for strong side agreements that solve those problems.

What else will we lose of NAFTA fails? We will not see cuts in Mexican tariffs. We will not win access to Mexican services markets. American automakers will have to continue making their cars there to sell them there. Over 30 percent of Mexican exports will keep coming into the United States duty-free. We will lose a great opportunity to export environmental technology.

We will lose a lot if the NAFTA fails. And we will keep the status quo. Companies will keep moving to take advantage of weak environmental and labor standards. The border problems will keep getting worse. We will continue to have one-way free trade in Mexico's favor. I do not want that. Does anybody here?

CONCLUSION

My trip to Mexico reinforced my views on the NAFTA, and on the side agreements. Together, they will be good for America. The administration is right to stick to their guns on both of them. We are on the right track, and we ought to stick to it.●

TRIBUTE TO CHARLIE JOHNSON

● Mr. McCONNELL. Mr. President, I rise today to honor a gentleman who has spent his adult life making significant contributions to the Louisville community. Charlie Johnson, president and chief executive officer of Active Transportation Co., is a shining example of a successful entrepreneur and citizen.

Charlie Johnson is no stranger to Louisville. Though a Columbus, GA, native, he has been in the area since he was a star football player for the University of Louisville Cardinals in the mid-1960's. The powerful 6-foot-3 288-pounder was an imposing presence for the Cardinals as well as throughout his 6-year pro career. The highlight of his athletic life was winning the 1970 Super Bowl with the Baltimore Colts.

Mr. President, it is not the fact that he was an outstanding professional football player that separates Charlie Johnson from other individuals. Unlike some sports stars, Charlie planned on having an equally successful life following his days in football. Armed with his degree from the University of Louisville he set out to conquer the business world as he had his football opponents.

Today, Charlie Johnson is the head of one of the largest minority-owned trucking companies in the United States. His companies employ about 300 people and operate a fleet of 240 trucks.

Mr. President, Charlie is described as a marketing genius by those who know him best. But when he is asked the secrets of his success his simple reply is that he believes in listening to people, noting that often the smallest suggestions make the most significant differences. Mr. President, that is advice that everyone in this Chamber could benefit from.

Mr. President, I ask my colleagues to join me in paying tribute to this outstanding Louisvillian. Charlie Johnson has taken the discipline and teamwork that he learned on the football field and applied those same concepts to his business life. His success is a wonderful example for all Americans to follow. In addition, I ask that a March 22, 1993, article from Business First be included in the RECORD.

[From Business First, Mar. 22, 1993]

CHARLIE JOHNSON HAS LIVED UP TO HIGH EXPECTATIONS

(By Roger Harris)

As the biggest kid in school and an all-state football player who drew 85 college

scholarship offers; Charlie W. Johnson's hometown fans in Columbus, Ga., always expected him to deliver the goods.

"It's almost like he's someone God sent to Columbus," says Johnson's longtime friend Wallace Davis. "People in Columbus really think a lot of Charlie."

Johnson, now a Louisville business executive, has always delivered, never disappointing his hometown, says Davis.

When Johnson was selected by the San Francisco 49ers in the 1967 National Football League draft, "you could hear bells ringing all over Columbus," says Davis, a high school teammate of Johnson's and a fellow NFL alumni.

He hasn't played football for 20 years, but Johnson is still delivering.

As president and chief executive officer of Louisville-based Active Transportation Co., Johnson, 48, heads one of the largest minority-owned trucking companies in the United States. He also is co-owner of another Louisville-based trucking company—Automotive Carrier Services.

Together the two companies employ about 300, operate a fleet of 240 trucks and have annual revenues of about $5.6 million.

His customers include two of the nation's industrial giants—Ford Motor Co. and General Electric Corp.

Johnson started in the trucking business in 1983 with the creation of Johnson/Houston Corp., a partnership that he owns with Wade and Alice Houston.

The Houstons moved to Knoxville, Tenn., five years ago when Wade Houston was named the head basketball coach at the University of Tennessee. But the partners keep in touch by telephone and Alice Houston usually spends one day a week in the Louisville office, Johnson says.

Johnson/Houston, in partnership with Jaspar Industries Inc., a Chicago-based trucking company, owns Active Transportation.

A separate company owned by Johnson and the Houstons—H.J. Industries—is the majority owner of Automotive Carrier.

Automotive Carrier and Active Transportation ranked fourth and fifth, respectively, on Business First's list published March 15 of the largest black-owned companies in metropolitan Louisville.

The trucking enterprise has operations in seven states—Kentucky, Texas, Georgia, Florida, Pennsylvania, New York and New Jersey.

When they started the trucking business, Johnson and the Houstons had no idea that their business would grow the way it has.

"We started on our kitchen table (in Louisville) with me doing the books," says Alice Houston. "We didn't know where it would go."

But now, Johnson talks of eventually reaching sales of "around $100 million."

It wouldn't surprise Alice Houston, president of Automotive Carrier.

"He's a marketing genius," says Alice Houston. "For someone who never had formal business training he intuitively knows what is necessary. He has some sixth sense that is absolutely uncanny."

Johnson makes no claim to being the only one responsible for the companies' success. Far from it, he says.

A solid partnership with the Houstons, the support of Ford Motor Co., and the good fortune to hire quality people are what have made the company what it is, Johnson says.

But his business partners give ample credit to Johnson.

Wade Houston, former assistant basketball coach at the University of Louisville, says Johnson has a rare ability to get along with people.

Whether it's an employee or a corporate chief executive officer, Johnson knows how to communicate, Wade Houston says.

"To be successful in business, as any professional endeavor where you have something to sell, you have to be able to communicate with people and Charlie can do that," says Wade Houston.

A big man—6-foot-3 and not far from the 288 pounds he carried on the football field—Johnson could rely on intimidation to get his way.

But that's not his style, says Lenny Lyles, a Louisville businessman and former U of L and professional football player who helped recruit Johnson for the Cardinal football team. "He's got that big ol' voice, but he's kind of fun," says Lyles. "He's real down to earth."

An emphasis on communicating with customers and employees is one of the big reasons that the trucking companies are successful, Johnson says.

"We have a real people organization," says Johnson. "We have people who believe in teamwork. We believe in listening to people."

If anyone in the business has an idea about how to do something better, Johnson is more than willing to listen.

Even the smallest suggestions can make a big difference, he says.

Take door chips, for instance. Giving a dealer trucks or cars with paint chipped off the door isn't the best way to make your customer happy, Johnson notes.

The problem was solved when one of Johnson's drivers came up with a better idea.

"When you drive a car up on a truck you don't have much clearance when you get out of the car," Johnson says. "We were having a problem hitting the doors, when one of our drivers came up with an idea for staging the cars a little differently to get a little more clearance. It solved the problem."

Overcoming business problems is something that Johnson knows a lot about.

When he and Wade Houston first went into business together, they took some serious knocks before things clicked.

Their first business venture was an unsuccessful attempt to build a grocery-store chain. Starting in 1979 with one store at 38th and River Park Drive, Johnson and Houston had ideas of "competing with the big boys," Johnson says.

But their timing wasn't good, notes Alice Houston.

Soaring inflation, cuts in the federal food-stamp program and a series of break-ins combined with absentee management killed the fledgling business after less than two years, Alice Houston says.

"We had to sell it," Johnson recalls. "We had some loans with the city and the Small Business Administration, and we just had to get out from under."

The first-time entrepreneurs lost $80,000, Johnson says.

Such an experience teaches valuable business lessons.

"Neither of us wanted to leave the safety net of corporate America, but we learned a tough lesson that if you are going to have a cash business, somebody with an ownership interest has to be there," Johnson says.

At the time, Johnson was working full-time as a supervisor at the Ford Truck Plant, and Wade Houston was a teacher and basketball coach at Male High School.

Johnson says the discipline and teamwork that he learned as a ball player prepared him well for dealing with the ups and downs of running a business.

"I attribute a lot of things in my life to sports," says Johnson, "Sports give you the dedication, commitment and the perseverance that I think you need in business."

Perseverance was Johnson's and Houston's watchword.

After the grocery venture, the two partners tried "a series of smaller things that never really got off the ground," Johnson says.

In 1983, they formed Johnson/Houston Corp. with the idea of getting into the trucking business.

Having been involved with transportation while working at Ford, Johnson knew something about the trucking industry.

"I saw a need," Johnson says, "I didn't see a lot of minority trucking companies doing business then."

When they started in the trucking business, Houston was coaching at U of L, so it was decided that Johnson would be the man in charge of day-to-day business.

"It seemed like the natural thing to do." Johnson says.

Originally, Johnson and Houston thought about hauling garbage to landfills, but that didn't work out. Instead, they landed a parts-hauling contract with Ford.

Johnson's friendship with Wade Houston started when they were roommates at the university. An instant bond formed between the tall, muscular kid from Georgia and the taller kid from Alcoa, Tenn.

"We hit it off right away," says Johnson.

The friendship grew, even while Johnson was banging his way around the NFL and Houston was starting his coaching career.

Johnson came back to Louisville in 1973 following a six-year pro career that included playing on the Super Bowl champion Baltimore Colts in 1970.

"I had lived in Baltimore, San Francisco and (Washington) D.C., but my friends were here," Johnson says. "I had good relationships here. It seemed like it would be easier to make the transition from pro ball."

In addition to friendships, Louisville held one other very important attraction—U of L. Johnson was determined to finish his degree.

"I came into college as a student-athlete and that's exactly what it meant to me," Johnson says. "The importance of getting an education was always instilled in me."

His parents left no doubt what they expected of their children when it came to school, Johnson says.

Despite the adulation and pressure of being a high school football star, Johnson says the support of his parents, four brothers and one sister kept him focused on getting an education.

When his father—a Methodist minister—died before he graduated from high school that family support became even more important, Johnson says.

Johnson always took school seriously, says Davis. In addition to being a star athlete, Johnson was a star in the classroom, making the honor roll in high school and the Dean's List in college, Davis says.

Johnson's high school coach, Otis Spencer, remembers him as a "good student who worked hard and didn't do much messing around."

It was largely because of Spencer that he picked U of L over other schools, Johnson says. Spencer respected the program of former Cardinal coach Frank Camp and sent at least a dozen of his players to Louisville, Johnson says.

Although the Columbus-Cardinal connection was strong, Spencer recalls a time when

Johnson called him from U of L and said he was leaving school.

"I asked him where in the hell was he going," says Spencer, 73, and retired after 34 years of teaching and coaching. "He got quiet then. I said the street is full of fools. That was the last I heard of that."

No one has ever accused Johnson of being a fool, says Lyles.

Johnson stayed in school and kept his sights on the future. And although he hadn't finished his degree when he started his pro career, Johnson studied in the off-season.

While playing pro ball, Johnson took courses at the University of San Francisco and the University of Maryland. When his playing days were over he needed only 15 hours to graduate.

In 1974, after returning to U of L, Johnson completed his bachelor's degree in history.

Now it was time to start getting down to business and building a future for his wife, Bettie, and their children, Charlane, now 22; and David, now 18.

"When his pro career ended he talked a lot about his son and daughter," says Davis. "He was concerned about his children getting a good education and how he would make that happen."

Making that happen meant securing his financial future, Johnson said. During his career, football salaries were a far cry from the big bucks that players earn today. The $30,000 that he made in his best NFL year is less than today's minimum, Johnson says.

"While playing pro football I talked with Lenny about life after football," Johnson says. "I knew I wanted to get into business, but I wasn't sure what kind of business."

Lyles says he never doubted that Johnson would be a business success.

"I knew he was always trying to be an entrepreneur," says Lyles. "It was just going to be a matter of time before he found what he wanted."

Johnson says the support of friends such as Lyles were crucial to his business success.

"He's always been sort of a big brother to me," Johnson says. "He's a giving person and he gets involved with people. I think he saw in me character traits that he liked, and we just kind of hit it off.

When Johnson makes a friend, that friendship last forever, no matter what happens, says Davis, who has known Johnson since junior high school.

"He's the kind of man who would give you his last penny," says Davis. "When he signed with the 49ers, he donated money to the church (in Columbus) so it could make some repairs."

Although the trucking business demands considerable time, Johnson believes in staying involved with the community. He serves on the U of L board of trustees; is on the executive board of the Boys Scouts of Kentuckiana; and is on the board of stewards at Quinn Chapel AME Church.

Having himself benefited from having role models to follow while in high school and college, Johnson hopes his businesses success serves as a role model for black youth.

"Everybody needs a role model," he says. "Unfortunately minorities don't have enough role models in businesses like Lenny Lyles was for me. If you have a role model, you can set your sights a little higher. It gives you the vision to do something; I think most people just don't have that vision."

In the spring following his final year in a U of L uniform, Johnson's vision was focused on the pros.

Big, fast and confident, he knew he could make it to the big time.

"I knew I was good enough," he says.

But it almost didn't happen.

Johnson remembers sitting around on draft day waiting for the phone to ring. Not long after the first round of the draft began, Johnson got a call from Vince Lombardi, the legendary coach of the Green Bay Packers.

Lonbardi wanted to talk money. Pro football in those days wasn't like it is today. No smooth-talking agent eager to represent that nation's top college players.

Johnson was on his own to negotiate with Lombardi, notorious for paying his players as little as possible.

"I had talked to Lenny about what players were making so I thought I knew what to expect," Johnson says.

Johnson mentioned a dollar amount and Lombardi said he'd call back, Johnson recalls with a rumbling laugh.

When the second and third rounds came and went, Johnson admits to a slight case of the nerves. The anxious moments ended in the fourth round when San Francisco called.

And once again, Johnson had delivered, says Davis.

"People expected a lot out of him," says Davis, "but just the way he carried himself you knew he could do it.●

EAST ROCKAWAY FIRE DEPARTMENT, 100TH ANNIVERSARY PARADE

● Mr. D'AMATO. Mr. President, I rise today to speak of an event that is going to take place on Saturday, July 24, 1993. The special event is a parade in honor of the East Rockaway Fire Department's 100th consecutive year of volunteer fire, rescue, and emergency protection.

Back in 1893, as community spirit grew, men with vision such as Carman Simmons and Henery Floyd Johnson, sought ways to improve life in our community. So, on November 11, 1893, they formed a volunteer fire department named Vigilant Engine No. 1, with 27 charter members. One week later 21 additional names were added to the rolls. Less than 1 month after Vigilant Engine Company was formed, a motion to purchase the first apparatus of the East Rockaway Fire Company was approved as the formation of Vigilant's sister company—Protector Hook and Horse Company No. 1 was also approved. Both Vigilant Engine Company and Protector Hook, Ladder, and Hose Company became incorporated under one name: East Rockaway Fire Department Inc., late in 1893. Both companies are still located within the original firehouse, located at Main and Front Streets, East Rockaway, NY.

The East Rockaway Volunteer Fire Department has faithfully and courageously served its community and surrounding districts for an incredible 100 years. I would like to pay tribute to the men and woman of this very special fire department who risk their lives each and every day in order to protect the lives and property of our collective community. And I ask that my colleagues join me in saluting the accomplishments of the Rockaway Fire Department. We can all feel safer knowing that the dedicated men and women of the Rockaway Fire Department are always close, always prepared, and always ready to help.●

USD STUDENT WINS PUBLIC SERVICE SCHOLARSHIP

● Mr. DASCHLE. Mr. President, it is with great pleasure that I present to my colleagues an essay by an outstanding individual from my State of South Dakota. Larry Selzler, currently an undergraduate at the University of South Dakota, is one of nine national winners of the 1993 Public Service Scholarship, given annually by the Public Employees Roundtable.

Larry has devoted much of his life to serving his country and his community. He served for 6 years in the U.S. Navy, an experience that branded him with a respect for the importance of teamwork and commitment. Larry has worked as a job counselor in the Job Service Program of South Dakota and has assisted with physical therapy at a VA hospital. His understanding of the dedication required for effective public service will serve him well in his future career with the Department of Veterans Affairs.

In an age when cynicism often overwhelms sincerity, Larry's essay is a refreshing example of the real rewards that a career in public service can offer. I congratulate him on his achievement and offer him my best wishes for the future. I ask that his essay be printed in the RECORD.

The essay follows:

WHY I HAVE CHOSEN A PUBLIC SERVICE CAREER

Although the benefits and pay are excellent, I have deeper interests for a career in public service. Through previous experiences I have worked with public servants who are committed professionals who set high standards for themselves. As a result, I want to be a member of this type of quality team. Also, much of what I have is due in part to public services. I received my education in public schools and now am attending the University of South Dakota. Furthermore, I spent six years in the United States Navy and am currently a member of the Naval Reserves. I enjoy serving my country in this capacity. These opportunities are made available by hard working members of public services. Consequently, I want to be in public service so I can give back what I have received and ensure that these and other services are available to others.

My first public service experience was in 1984 when I joined the U.S. Navy. The people I worked with are dedicated professionals with very high standards for themselves and those around them. Working with this caliber of professionals taught me to set high standards and goals for myself. While in the Navy I had the opportunity to work as a counselor at Guantnamo Bay, Cuba. Through this experience I discovered how much I enjoyed being part of a team and helping people. Consequently, when I left the Navy I joined the Naval Reserves, so I could continue to be a part of the Navy's team.

During my first summer at college I worked at the South Dakota Job Service in Vermillion, South Dakota. My responsibilities were to help South Dakotans find jobs or receive the training they needed. The teamwork in this office was phenomenal. They set challenging team goals and strove hard to achieve them. The professional atmosphere of this office encouraged me to continually push and challenge myself. Ultimately, I want to be a participant in this type of atmosphere.

Since 1992 I have been working at the University of South Dakota in the Computing Services Department, which provides valuable technical support to the university. Again, I found the team professional, dedicated, and very hard working. Department members take the initiative to remain current in a very volatile field. Our team encourages and challenges each other. This team spirit and dedication to the job ultimately influences others.

In addition to working at the University of South Dakota, I work at the Veteran's Hospital in Sioux Falls, South Dakota. In my position in the Physical Therapy Department, I have the opportunity to assist patients in their recovery. I do not think I could find a better group of people to work with, not just those in Physical Therapy, but the entire staff. Here too, I have found nothing but dedicated professionals helping others.

Through these experiences at the various agencies, I find myself continually challenged. Working with the caliber of people in these agencies is similar to the difference between competition with Olympic caliber and second string athletes. Competition with Olympic caliber athletes provides the challenge to achieve higher goals. Besides the benefits of being a member of a high quality, professional team, a career in public service would enable me to repay some of what I have received. Furthermore, I want to be assured that there will be quality service and dedicated people to challenge and encourage the next generation.•

DISTANCE

• Mr. JEFFORDS. Mr. President, it is with great pride that I rise today to introduce a poem composed by 10-year-old Hannah Pick of Putney, VT. While a fifth grader at the Putney Central School, Hannah wrote this poem about her 83-year-old grandmother, Katherine Scholl, who has Alzheimer's disease. Katherine Scholl has been a resident at the Thompson Nursing Home in Brattleboro for the past 6 years. For 13 years prior to that time, Hannah's grandfather, Julian Scholl, took care of his wife at home.

The poem is entitled "Distance," and Hannah writes about her longing to overcome the separation which Alzheimer's disease has brought about between herself and her grandmother. One of the cruelest effects of Alzheimer's disease occurs when those who are afflicted become unable to recognize even their loved ones. While recognizing the limitations of their ability to communicate with and understand one another, Hannah ends her poem with a beautiful celebration of the value and virtues which her grandmother still possesses even in the advanced stages of the disease.

Hannah and her family dramatize the need to address long-term care in any health care reform plan to be considered by this Nation. Currently, the family is faced with an excruciating choice between continued institutional care for Katherine or college for Hannah. A fledgling talent such as Hannah is owed more. Any child is owed more. I am proud to submit this moving and insightful poem for the RECORD.

The poem follows:

DISTANCE

(A poem about my grandmother—by Hannah Pick, age 10)

There she is
Sitting in her chair
Looking out the window
Listening to Bach or Beethoven
Humming to herself
Sometimes I wonder
What she's thinking about
But not a word will come out
Not a word spoken
Except for an occasional word of understanding
But even so
It is not to my understanding
A wall of mist
Is keeping us separate
That's all
It's as if she wished to know me
But can't
Sometimes a smile
Will spread across her wrinkling face
Smiling at me
Like the mist had broken
Just for a minute
Not long enough
Her white hair
Is wild
And reaching
Reaching out to life
Her eyes are searching
Searching for love
I love her so much
But I don't know if she understands
If a kiss will mean anything to her
If a hug will too
I wonder
But even so she's smiling
Hanging on to life
As though she's really happy
Even if she can't talk
She can laugh
She can smile
And she can love•

BOSNIA AND HERZEGOVINA

Mr. FEINGOLD. Mr. President, today at the World Conference on Human Rights in Vienna, Pakistan introduced a special declaration on Bosnia and Herzegovina. The resolution was passed by a vote of 88 to 1, Russia, with 54 abstentions.

To my disappointment, the United States and the European Community countries abstained. Evidently, the U.S. representative to the conference is opposed to consideration of specific resolutions at this conference. I disagree, Mr. President, because while there are severe human rights abuses occurring throughout the world, the ethnic cleansing, systematic rape, and vicious land grabs perpetrated by the Serbs demand special outcry and condemnation.

As an international group of human rights advocates meets just 200 miles from Bosnia and Herzegovina, it is fitting that the majority of the delegates committed themselves to preventing and punishing genocide in the Republic of Bosnia and Herzegovina. It is appropriate that they rejected any acquisition of territory in the Republic of Bosnia and Herzegovina by the use of force. And it is wise that they called upon the world community to lift the arms embargo against the Republic of Bosnia and Herzegovina in order to enable it to exercise its right to self-defense in accordance with article 51 of the charter.

As the delegates correctly noted, the right to self-defense in the face of naked aggression is a human right. President Clinton has recognized this, and is working to persuade our European allies. He made a great step forward this week when German Chancellor Helmut Kohl, in response to a letter from President Clinton, announced his support to lift the embargo.

I sincerely regret the United States position on this resolution, but I am encouraged by President Clinton's efforts to move in the right direction on Bosnia and Herzegovina. I also offer my congratulations to the delegates who supported this language, and thank them for their efforts to recognize the tragedy of Bosnia.

Mr. President, I ask that a copy of the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

The United Nations World Conferences on Human Rights, mindful of its objective to uphold and promote full respect for and effective promotion of human rights, and bearing in mind its appeal made to the Security Council on the tragedy in the Republic of Bosnia and Herzegovina, declares that,

The tragedy in the Republic of Bosnia and Herzegovina, characterized by naked Serbian aggression, unprecedented violations of human rights and genocide, is an affront to the collective conscience of mankind,

Hundreds and thousands of innocent civilians have been slaughtered, incarcerated and forced to flee their homes because of the reprehensible policy of ethnic cleansing. Over 40,000 Bosnian women have been subjected to the gruesome crime of rape,

At present, over 70 per cent of the territory of a State Member of the United Nations, the Republic of Bosnia and Herzegovina, is under Serbian occupation, the remaining few towns under Bosnian control are under constant siege and their residents are being deliberately starved,

This situation calls for urgent and resolute action by the international community,

Therefore,

The United Nations World Conference on Human Rights categorically condemns the ongoing aggression against the Republic of Bosnia and Herzegovina, the heinous practice of ethnic cleansing, war crimes and

crimes against humanity, particularly the extermination of its Muslim population.

The World Conference believes that the practice of ethnic cleaning resulting from Serbian aggression against the Muslim and Croat population in the Republic on Bosnia and Herzegovina constitutes genocide in violation of the Convention on the Prevention and Punishment of the Crime of Genocide.

The World Conference affirms that the failure of the international community to prevent and punish genocide and redress atrocities in the Republic of Bosnia and Herzegovina calls into question the commitment of the international community to the protection of fundamental human rights and freedoms all over the world.

The World Conference strongly condemns Serbia-Montenegro, the Yugoslav National Army, the Serbian militia and the extremist elements in the Bosnian Croatian militia forces as perpetrators of these crimes.

The World Conference, in order to restore the credibility of and the trust in the United Nations as the custodian of international law and human rights, gives the highest priority to addressing the tragic situation in the Republic of Bosnia and Herzegovina and urges the international community to assume full responsibility to restore peace and stability in the Republic of Bosnia and Herzegovina based on the principles of justice, independence, sovereignty, unity and territorial integrity, including the inviolability of its internationally recognized borders.

The World Conference urges the world community and all international bodies, in particular the Security Council, to take forceful and decisive steps for effective measures of peace-making in the Republic of Bosnia and Herzegovina with a view to:

1. Preventing and punishing genocide in the Republic of Bosnia and Herzegovina.

2. Rejecting any acquisition of territory in the Republic of Bosnia and Herzegovina by the use of force, and calling upon all occupying forces to withdraw immediately from those territories.

3. Calling upon the Security Council to implement the Vance-Owen Peace Plan under Chapter VII of the Charter of the United Nations.

4. Immediately implementing an effective cease-fire, accompanied by the neutralization of all heavy weaponry, which should be placed under the control of the United Nations Protection Force, and the interdiction of all arms supplies to Serbian forces operating in the Republic of Bosnia and Herzegovina.

5. Simultaneously implementing effective measures to secure the roll-back of invasion unless the invading forces voluntarily withdraw.

6. Lifting the arms embargo against the Republic of Bosnia and Herzegovina in order to enable it to exercise its right to self-defense in accordance with Article 51 of the Charter and implementing all necessary measures under the Charter in order to reverse the aggression perpetrated by Serbian forces and the extremist element in Bosnian Croatian forces against the Bosnian Muslims.

7. Extending immediate humanitarian help for the relief of persons in beseiged towns and cities as well as other victims.

8. Restoring the sovereignty, independence and territorial integrity of the Republic of Bosnia and Herzegovina.

9. Implementing speedily Security Council resolution 808 (1993) of 22 February 1993 which established an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, and bringing immediately to trial all persons suspected of committing crimes against humanity, including war crimes.

10. Effectively eradicating the tragic consequences of the aggression and the human rights violations in the Republic of Bosnia and Herzegovina, by way of joint international efforts for the reconstruction of the political and physical institutions of the Republic of Bosnia and Herzegovina.

11. Enabling all refugees, deportees and displaced person to return safely to their homes in the Republic of Bosnia and Herzegovina and restoring their properties, hence rejecting any documents signed by them under duress.

12. Strongly warning against and rejecting any intention to use the safe-haven areas in the Republic of Bosnia and Herzegovina as permanent refugee camps which perpetuate the fruits of aggression, occupation and territorial gains.

The World conference, on behalf of the international community, pledges its solidarity with the people and the Government of the Republic of Bosnia and Herzegovina, and urges the Security Council to fulfill its responsibilities under the Charter of the United Nations, particularly under Article 24, by taking all prompt and effective measures in order to restore peace and affirm the independence, sovereignty and territorial integrity of the Republic of Bosnia and Herzegovina and uphold the human rights of its people.●

SOURCES OF PAYMENT AND PROFITS ASSOCIATED WITH SALES OF AZIDOTHYMIDINE [AZT]

● Mr. PRYOR. Mr. President, today, I am placing in the RECORD the summary of a report which identifies the primary sources of payment for the drug azidothymidine, which is commonly known as AZT, and estimates the amount of profits made by the drug's manufacturer, Burroughs-Wellcome. AZT is the primary treatment used for HIV-infection. The report was completed by Dr. Thomas McLaughlin of the Harvard Medical School faculty in Boston.

This report suggests once again what many of us have thought all along: that Burroughs-Wellcome has made extraordinary profits on a critical, life-extending medication. What makes this especially troublesome is the fact that the American taxpayers supported the lion's share of the development of this drug. Now, Americans are spending hundreds of millions of dollars each year to buy back a drug which evidence suggests, at a very minimum, we should have co-owned in the first place.

Here are just a few facts from the report:

The majority of AZT sales in the United States—about 50 percent—have been paid for by the Federal and State governments through Medicaid and Medicare. In fact, the report estimates that between 1987 and 1996, cumulative AZT Medicaid costs will total $845 million. This estimate increases to $925 million if special Federal grants to States to buy AZT for the indigent are included in the total.

Of special concern is the report's conservative estimate that, through August 1992, Burroughs-Wellcome has reaped almost $600 million in profits on total AZT sales of $1.4 billion, 43 percent of total AZT sales.

At this pace, worldwide AZT profits are expected to increase to $1.3 billion by August 1996, half of which will come from the U.S. market.

We have all known that the Federal Government, in particular the National Institutes of Health, had a substantial role in the discovery and development of AZT as a treatment for HIV infection. Because of this, it is very disturbing and surprising that the Federal Government did not seek coownership of this drug at the outset.

It is also difficult to understand how Burroughs-Wellcome can justify these high profit levels based on research and development costs for AZT. That is because the AZT compound was discovered in the early 1960's, and was sitting on a shelf for over 20 years before NIH discovered that it was active against the HIV virus. NIH supported much of the clinical research, bore the physical risk, FDA expedited the approval of the drug, and the company received generous orphan drug tax credits that further reduced its costs. The Federal Government is still supporting postapproval clinical trials. What did the American taxpayer get in return? An unusually high bill for a vital medication.

Dr. McLaughlin's report does a very credible and reliable job of collecting, analyzing, and projecting data about AZT's profit levels. However, Burroughs-Wellcome is certainly welcome to challenge these numbers by opening its books, and telling us exactly how they justify the profits for AZT.

Two other drug manufacturers are currently challenging Burroughs-Wellcome's patent in order to break the monopoly and provide the drug to the American public at a more reasonable price. I call upon the Department of Justice to assist where it can in determining whether the American taxpayer rightfully deserves coownership of the patent on AZT.

Finally, I call on the Congress to enact legislation this year to assure that all Government-developed technologies which are transferred to the private sector, especially pharmaceuticals, are priced reasonably for the American taxpayer. Anything less is an abdication of our fiduciary responsibilities.●

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN: THE HIGH COST OF INSURANCE FOR THE SELF-EMPLOYED

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in our country. Today, I want to tell the story of Ann and Barry Robbins from Farmington Hills, MI. As self-employed small business owners, the Robbins struggle to pay the high cost of health insurance for their family. Ann wrote to me earlier this month, outlining how expensive and difficult it is for an individual family to purchase health insurance when they are not part of a larger group.

Barry and Ann are in their midthirties and have four children under age 9 named Justin, Kurtis, Brent, and Derek. The Robbins have owned and operated their own construction business since 1985. They are the sole employees of the company.

The family has always purchased health insurance as Ann and Barry recognize the need to protect themselves and their children against serious injury or illness. However, Ann fears that their small business will not be able to survive for long if the costs continue to escalate. Currently, the Robbins pay over $3,600 per year in health insurance premium costs alone.

In addition to paying for premiums, Ann estimates the family spends $2,000 per year in other out-of-pocket medical expenses primarily because they have a $250 yearly deductible for each family member under this current policy. The family has to pay for doctor visits, prescription drugs and other medical services until they reach the $250 threshold for each person/child. At that point, the insurance pays 80 percent of the cost and the family is responsible for a 20 percent copayment.

Ann has changed insurance companies several times because of increasing premium costs and changes in what the policy covers. In August 1991, she switches to a basic family policy, dropping her higher cost maternity insurance policy after the birth of her fourth child.

However, Ann and the family paid a price for switching policies. Derek, the newborn, needed to see a specialist and have x rays performed to diagnose a weak valve in his esophagus. Ann was initially told by the insurance agent that her new policy would cover Derek's medical expenses. When the bills were submitted, the company refused to pay because of a preexisting condition clause. Ann and Barry were forced to pay $485 to cover the cost of the x rays and the visit to the specialist.

As self-employed workers, the Robbins have had a difficult time buying insurance for the family. Some insurance companies will not even offer the family a policy, since they are not part of a group. They were told that if their business had six employees or more they could purchase group coverage. In her letter Ann wrote that she is discouraged by the options available to self-employed individuals. She pointed out, there is very limited access to medical insurance policies for the self-employed.

Self-employed people should have access to the same affordable coverage as larger employers. Small businesses should not be discriminated against because they do not have the purchasing power of a group.

Establishing and running a small business can be risky and stressful. Ann and Barry Robbins do not need the additional worry of finding affordable health care coverage. They deserve the peace of mind that comes with having health insurance coverage for their family.

To help families such as the Robbins, I will continue to work for national health care reform to make affordable health insurance available to everyone.•

ORDERS FOR TUESDAY, JUNE 29, 1993

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 9:30 a.m., Tuesday, June 29; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first hour of morning business under the control of Senator BYRD, with Senator GRAMM, of Texas, recognized for up to 10 minutes, and Senator GORTON for up to 15 minutes; and that on Tuesday, June 29, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conference luncheons.

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

RECESS UNTIL TUESDAY, JUNE 29, 1993, AT 9:30 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate at 3:32 a.m., recessed until Tuesday, June 29, 1993, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1993:

DEPARTMENT OF EDUCATION

RAMON C. CORTINES, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS AND FOR HUMAN RESOURCES AND ADMINISTRATION, DEPARTMENT OF EDUCATION.

DEPARTMENT OF ENERGY

VICTOR H. REIS, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (DEFENSE PROGRAMS), VICE RICHARD A. CLAYTOR, RESIGNED.

DEPARTMENT OF STATE

ROBIN LYNN RAPHEL OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1993:

DEPARTMENT OF LABOR

MARIA ECHAVESTE, OF NEW YORK, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR.

DEPARTMENT OF ENERGY

ARCHER L. DURHAM, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (HUMAN RESOURCES AND ADMINISTRATION).

WILLIAM J. TAYLOR III, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL, INTERGOVERNMENTAL, AND INTERNATIONAL AFFAIRS).

WILLIAM H. WHITE, OF TEXAS, TO BE DEPUTY SECRETARY OF ENERGY.

DEPARTMENT OF EDUCATION

SHARON PORTER ROBINSON, OF KENTUCKY, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

JUDITH A. WINSTON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.