SENATE—*Friday, October 27, 1995*

(Legislative day of Thursday, October 26, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, You have told us that nothing can separate us from You. That is both a source of comfort and challenge. We are comforted by Your love, forgiveness, and constant care. We are challenged by our accountability to You. To whom much is given, much will be required. You are the righteous Judge of our words and our decisions. Help us to seek Your will in all that we do. You have said, "Let him who glories glory in this, that he understands and knows me, that I am the Lord exercising loving kindness, judgment and righteousness in the earth. For in these I delight."—Jeremiah 9:24. We want to do what delights You. We repent of the pride of ever thinking we can lead this Nation without Your priorities of righteousness, purity, truth, and Your power to implement them. May intimate communion with You always be the source of integrity in our leadership. We commit ourselves to live this day to Your glory, totally dependent on the presence and power of our Lord. Amen.

ORDER OF PROCEDURE

Mr. GRAHAM. Mr. President, reserving the right to object, I would like to ask a question. We have been waiting since late yesterday afternoon to receive a copy of the Finance Committee amendment.

Could the manager indicate when that might be available?

Mr. STEVENS. Mr. President, this Senator has no answer to that. There is no time. The schedule is to start voting immediately.

Mr. GRAHAM. Mr. President, I want to—I continue my reservation of objection. I am going to object strenuously if—I would like the floor manager's attention.

The PRESIDENT pro tempore. The regular order is for the clerk to report the bill.

Mr. GRAHAM. Mr. President, I think I have the floor, and I wish to announce that I am going to object strenuously——

The PRESIDENT pro tempore. The Senator does not have the right to the floor at this time.

Mr. GRAHAM. To any attempt——

The PRESIDENT pro tempore. The Senator does not have a right to the floor at this time.

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. The clerk will report the bill.

The legislative clerk read as follows:

The bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

Pending:

Gramm amendment No. 2978, to provide States additional flexibility in providing for Medicaid beneficiaries.

Kerry/Kennedy amendment No. 2979, to express the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.

Domenici (for Murkowski/Johnston) amendment No. 2980, of a technical nature.

Kennedy/Kassebaum amendment No. 2981, to strike the provision allowing the transfer of excess pension assets.

Wellstone amendment No. 2982, to eliminate the tax deduction for oil drilling, to eliminate the corporate minimum tax provisions, to eliminate the foreign earned income exclusion, and to eliminate the section 936 possession tax credit.

Pryor/Cohen amendment No. 2983, to provide for the continuation of requirements for nursing facilities in the Medicaid Program.

Simon amendment No. 2984, in the nature of a substitute.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I take 3 minutes and answer the Senator?

Senator Graham, I understand that the staff, Senator DOLE's staff, is in the process of delivering the amendment to you right now.

Mr. GRAHAM. The point I was making, if I could, Mr. President, is that I am going to object strenuously if the 10-minute rule is attempted to be applied to the Finance Committee amendment.

We have not had an adequate opportunity to evaluate and to understand its significance. I am alerting the manager to my intention to protect the rights of those who have been waiting now for almost 18 hours to get a copy of this amendment. We have been denied that opportunity, and soon we will be asked to vote upon a stealth amendment which will quite likely be the most significant amendment on this most significant legislative enactment.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2978

Mr. DOMENICI. The next amendment on our side is Senator GRAMM's. He is not here and asked we set his amendment aside and proceed to the next amendment, which is the Kerry amendment.

Several Senators addressed the Chair.

Mr. CHAFEE. Mr. President, I am interested in this amendment. Are you just skipping it once or what?

Mr. DOMENICI. I am asking that it be set aside for one amendment. If the Senator is not ready——

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Reserving the right to object.

Several Senators addressed the Chair.

Mr. EXON. Reserving the right to object, may I interject a few statements?

Mr. DOMENICI. Of course.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I simply say I share the concerns expressed by my colleague from Florida. I think, if we will check the RECORD, we will find very clearly that the Roth amendment—that is the subject of concern, and I think legitimately so, of the Senator from Florida and others—was supposedly the first amendment we were going to take up when we started this process of voting yesterday. It was laid aside. We were advised late last evening, sometime before midnight, that the measure would be presented to us so we could study it overnight. I remind all it was a rather short night. We still have not received it. I have not received it. Maybe it is in the process of being delivered to us at this time.

Here, it seems to me, we have to exercise some discipline. All day yesterday, this Senator, along with my colleague, the chairman of the committee, kept telling Senators you have to be here to offer your amendments. We cannot run the U.S. Senate for the benefit of every other Senator, regardless of their station in life and regardless of what office they are running for.

It seems to me, if we are going to move this process along, we are going to have to institute a policy that, if the Senator on the list that has been published now for about 24 hours is not here to offer the amendment, then I suggest the amendment should be set aside and disposed of and not considered.

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

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We have to exercise some discipline on everyone. I simply say I hope I can see the Finance Committee amendment. But in the meantime, I am at the mercy of the majority, and I simply ask my colleague if he could not join with me—and I think he will—to try to exercise some discipline on both sides of the aisle, not only with regard to the time constraints that we must maintain, but, also, we cannot move ahead unless Senators put the priority I think is necessary and that we should expect for them to be here to offer their amendments in a timely fashion, if for no other reason than out of consideration for the other Members of the body.

Mr. DOMENICI. Mr. President, Senator GRAMM is here. He does not intend to offer his amendment. He withdraws it.

We are ready to proceed with your amendment.

Mr. ROCKEFELLER addressed the Chair.

Mr. EXON. I appreciate that very much. That is very good news.

Mr. FORD. Should we not make a motion to withdraw the amendment?

The PRESIDING OFFICER. Is there objection to withdrawing?

Mr. DOMENICI. Can the manager of the bill withdraw the amendment?

The PRESIDING OFFICER. Is there objection to withdrawing 2978?

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I will not object. I will just say, there are a number of Senators here, including the Senator from Rhode Island and the Senator from West Virginia, who note this withdrawal may have been strategically a very good idea because it was going down to a dreadful defeat because it is such a dreadful amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I do not withdraw the amendment and I am ready to speak on behalf of it.

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Texas.

Mr. GRAMM. Mr. President, what we have in this bill is an effort by Senators——

The PRESIDING OFFICER. There is 1 minute equally divided on the amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, what we have in the bill before us is a double-cross of the States. We reduced the rate of growth in Medicaid spending in agreement with the Governors by $187 billion. But the condition under which the Governors took the reduced rate of growth was that they were going to get to run the program. This is in Medicaid. So, in the Medicaid Program, we reduced the growth of spending in that program by $187 billion. The Governors agreed to it on the condition that they run the Medicaid Program. We now are trying to tell them how to run it.

I do not doubt the Senator from West Virginia and the Senator from Rhode Island have very good intentions. But we should not be telling the States how to run this program.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we have 30 seconds now?

Mr. EXON. Mr. President, I yield 30 seconds to my colleague from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is yielded 30 seconds.

Mr. ROCKEFELLER. Mr. President, this is the most cruel and unusual amendment of this entire 24-hour fiasco. It rejects the idea of making sure America's poorest children, poorest elderly, pregnant women, disabled, SSI—it decimates people who need help. It is an evisceration of Medicaid. It is a cruel amendment. It ought to be rejected by both sides.

The PRESIDING OFFICER. Is there further debate?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there is a lot of talk about who is in the wagon these days. If we have no room in the wagon for 12-year-old poor children, pregnant women, the blind, and disabled, we have become an unworthy society.

The PRESIDING OFFICER. All time has expired.

The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent the first vote be 15 minutes and thereafter votes be limited to 7½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The first vote will be 15 minutes. Then further votes will be 7½ minutes.

Mr. DOLE. I thank the Chair.

The PRESIDING OFFICER. The question now is on the Gramm amendment No. 2978.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 23, nays 76, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—23

Ashcroft	Faircloth	Hutchison
Bennett	Gramm	Inhofe
Brown	Grams	Kyl
Coats	Grassley	Lott
Cochran	Hatch	Mack
Dole	Helms	
McCain	Roth	Smith
Nickles	Santorum	Thompson

NAYS—76

Abraham	Feingold	McConnell
Akaka	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Frist	Moynihan
Bingaman	Glenn	Murkowski
Bond	Gorton	Murray
Boxer	Graham	Nunn
Bradley	Gregg	Pell
Breaux	Harkin	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Sarbanes
Chafee	Johnston	Shelby
Cohen	Kassebaum	Simon
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Warner
Domenici	Levin	Wellstone
Dorgan	Lieberman	
Exon	Lugar	

So, the amendment (No. 2978) was rejected.

Mr. EXON. 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.

AMENDMENT NO. 2979

The PRESIDING OFFICER. Under the previous order, No. 2979 offered by the Senator from Massachusetts [Mr. KERRY] will be considered, 1 minute equally divided.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

Mr. EXON. Once order is restored in the Senate, I would like to yield 30 seconds on our side to the Senator from Kansas for remarks that I understand she has to make on this measure.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. If I could have the attention of the Senator from Kansas. The Senator from Kansas, I yield her 30 seconds off of our time on the Kennedy amendment. I apologize. We are going to the Kerry amendment at this time.

The PRESIDING OFFICER. The Kerry amendment.

Mr. EXON. I yield 30 seconds to Senator KERRY.

Mr. KERRY. Mr. President, this amendment does not ask Senators to vote on any number. It simply asks Senators, as a sense of the Senate, to say that before the end of the session we will vote and debate on the minimum wage issue.

I will just share with Senators an article in the New York Times today.

It says:

> The income gap between rich and poor was wider in the United States during the 1980s than in any other large industrialized country, according to the most comprehensive international study ever released on income distribution.

Seventy percent of the poverty wage, $8,500, is the current income level.

We simply want to vote and debate on it. And I hope colleagues will agree we ought to do that.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I assume I had 30 seconds under the rule.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. DOMENICI. I yield back my 30 seconds and make a point of order that this violates the Budget Act. I raise a point of order under the provisions of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—51

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

NAYS—48

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

The PRESIDING OFFICER (Mr. STEVENS). On this vote, the yeas are 51; the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2980

The PRESIDING OFFICER. The question is amendment No. 2980, offered by Senator DOMENICI.

The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the yeas and nays be vitiated and that we have a voice vote.

The PRESIDING OFFICER. Does the Senator seek 1 minute, equally divided?

Mr. DOMENICI. I do not think we need any time.

Mr. EXON. Mr. President, I agree with my colleague and yield back our time. I hope we can have a voice vote.

Mr. MOYNIHAN. I object, Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

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

The amendment (No. 2980) was agreed to.

Mr. JOHNSTON. 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. 2981

Mr. EXON. Mr. President, the next pending amendment is a Kennedy amendment, is that correct?

The PRESIDING OFFICER. The pending amendment is the Kennedy-Kassebaum amendment No. 2981.

Mr. EXON. I yield 30 seconds of our time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I urge my colleagues to support striking this provision from the bill before us, because I believe it is bad pension policy. We are making some assumptions here which we do not really know the consequences of, and I feel that it is absolutely essential that we not begin to make inroads into pension plans in which retirees have counted on without knowing the consequences. I urge all to support the amendment.

Mr. DOMENICI. I think the leader wants some time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, we are prepared to accept the amendment without a rollcall, if we want to speed up the process.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DOLE. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

The PRESIDING OFFICER. The question is on agreeing the amendment No. 2981.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—94

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

NAYS—5

Brown	Helms	Roth
Grams	Nickles	

So the amendment (No. 2981) was agreed to.

AMENDMENT NO. 2982

The PRESIDING OFFICER. The next amendment is Wellstone 2982. The yeas and nays have been ordered.

Mr. EXON. Mr. President, I yield 30 seconds of our time to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this amendment is all about plugging tax loopholes, whether we are talking about keeping a strong alternative minimum tax, or getting rid of subsidies for oil companies or pharmaceutical companies.

This all goes for deficit reduction—all the savings go into a lockbox—and the total savings is between $60 to $70 billion. I will tell you right now, regular people are tired of having to pay more in taxes because of these egregious loopholes. I urge my colleagues to vote "aye."

Mr. President, last night I talked briefly about each of the four amendments I was going to offer separately, that I continued in my omnibus amendment.

I now ask unanimous consent that a statement elaborating on each tax loophole, and the reasons for its elimination, which this omnibus amendment

proposed to do, be printed in the RECORD.

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

REPEAL CORPORATE WELFARE IN THE TAX CODE: ELIMINATE OIL AND GAS TAX BREAKS NOW

Mr. President, I rise to offer an amendment which I know will be controversial with some Senators, but which I think deserves debate and a vote. It is part of my larger effort to help reduce the deficit over the next several years through scaling back corporate welfare, instead of making such unnecessarily large cuts in Medicare, Medicaid, student loans, and other areas, many of the proceeds from which will be used to finance a tax cut primarily for the wealthy.

This Republican budget package is radical, and it fails to meet a basic test of fairness that Americans expect us to apply in order to get to a balanced budget. One of its major failings that has not been much discussed is that it does almost nothing to eliminate the fantastically expensive tax loopholes that have been embedded in the code for years, and that give special treatment to one industry or type of investment over all others. These preferences distort economic decision-making, and because they are so expensive make regular middle-class families, who are struggling to make it these days, pay much higher income taxes than they otherwise would have to pay.

Let me make a simple point here that is often overlooked. We can spend money just as easily through the tax code, through tax loopholes, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a government check or in the form of a tax break for some special purpose, like a subsidy, a credit, a deduction, or accelerated depreciation for this type of investment or that. These tax loopholes allow some taxpayers to escape paying their fair share, and thus make everyone else pay at higher rates. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes.

I think it is a simple question of fairness. If we are really going to make the spending cuts and other policy changes that we would have to make to meet the balanced budget amendment targets, then we should make sure that wealthy interests in our society, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits or student loans.

That is just common sense, and I think we ought to signal today that the standard of fairness we will be applying will require elimination of at least some of these tax breaks. Too often, in discussions about low-priority federal spending which ought to be cut, one set of expenditures is notoriously absent. That is tax breaks for wealthy and well-positioned special interests.

Tax subsidies are heavily skewed to corporations and the relatively few people in very high-income brackets, while government benefits and services go in far larger proportions to the middle class and the poor. If it is harder to eliminate tax breaks or other preferences than cut programs, the burdens of deficit reduction are likely to be borne disproportionately by those in the bottom half of the income scale. The effect of this, of course, is a further transfer of political power up the income scale. This imbalance means the system is likely to favor the wealthy and powerful over those in the bottom and middle of the income scale.

Many of these tax breaks are industry-specific, others were designed to encourage particular kinds of activities or investments, or to subsidize consumers of certain products. The General Accounting Office issued a report last year, in which they noted that most of these tax expenditures currently in the tax code are not subject to any annual reauthorization or other kind of systematic periodic review. They observed that many of these special tax breaks were enacted in response to economic conditions that no longer exist. In fact, they found that of the 124 tax expenditures identified by the Committee in 1993, about half were enacted before 1950. The particular oil and gas tax break that my amendment focuses on was enacted in its original form in the 1920's. Many of these industry-specific breaks get embedded in the tax code, and are not looked at again for years.

Now some will vote against this motion reflexively, arguing wrongly that this is simply an attempt to raise taxes. It is not. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes. They are pushed by high-priced lobbyists, who have hired even more highly-paid tax lawyers, to make their special pleadings.

The effect of allowing them to continue is to ensure that hard-working Americans will not be provided much real tax relief, since all of the revenues that might help pay for such relief are being siphoned off by wealthy special interests. This amendment simply calls the question on one small part of the very targeted spending we do through the tax code, spending that is not subject to the annual spending process and is rarely debated on the floor of the Senate.

This amendment would repeal the current special tax treatment for what are called "intangible drilling costs" in the oil and gas industry. Since around 1916, the oil and gas industries have benefitted richly from this special benefit. The Congressional Budget Office has estimated that eliminating this loophole will save US taxpayers at least $2.5 billion over the next five years; and billions more in the years thereafter.

This is how this longstanding special tax benefit works. Companies engaged in oil and gas exploration are allowed to completely deduct from their federal taxes what are termed the "Intangible Drilling Costs", or IDC's, of conducting drilling and related activities as they explore for profitable wells. These include what they pay for labor, fuel, repairs, hauling, supplies, site preparation—many different kinds of expenses they pay when looking for new and more profitable wells. By expensing rather than capitalizing these costs, taxes on much of their income are effectively set to zero.

In most industries, the logic of tax policy requires that a company is allowed to recover its costs of doing business, either through depreciation or a special form of depletion, over the valuable life of the asset. But this special benefit is an exception to these general tax rules. And though decades ago it was argued that these special benefits were necessary to encourage oil exploration, they can no longer be justified—and certainly not in the current budget crunch. Even with the introduction of the alternative minimum tax in the 1980's, when you consider the many other breaks these industries still receive—including the very expensive percentage depletion allowance—this still keeps the effective marginal tax rate on gas and oil companies below that for other industries. That is not fair, and it makes middle income people pay higher income taxes. It should stop, now.

I know that oil and gas companies, and those who represent them here in the Senate, have in the past argued that these special tax breaks should be extended because of the special risks involved in looking for oil and gas wells to drill. While it is true that these are sometimes high-risk ventures, they are also very profitable, or else companies would not be pursuing them. The risks are justified by the large profits to be made. I also wonder whether they are intrinsically any less risky than small business start-ups in new markets, or the launching of new products, or similar entrepreneurial business decisions. I suspect probably not.

Proponents will also argue that capital is hard to come by in the oil and gas industry, and that small producers need to be protected. Of course, everyone who enjoys these kinds of tax breaks are going to try to couch their plight in terms of being the embattled little guy. But that is not what this is about. This is mostly about special tax benefits being showered on large and small producers alike—even though there are somewhat different rules for each—in a single industry that has been consistently showing signs of profitability in recent years. While sometimes volatile oil markets make oil and gas investments risky, that doesn't necessarily justify this special treatment.

In addition to the huge costs to taxpayers that must be considered when looking at this tax break, we should also be aware of the environmental costs that are attached. As with many other energy subsidies, this subsidy encourages drilling in environmentally sensitive areas, and serves as a disincentive for us to explore more environmentally sustainable means of energy production.

And these are areas which have been protected for years by the ravages of thoughtless oil and gas development. For example, I strongly oppose drilling in the Arctic National Wildlife Refuge. This has been an issue that I have been involved in from the time I first came to the Senate. There was a filibuster over ANWR that I led when I was here just a short period of time and now ANWR is back again. The Energy Committee has voted, over the objections of a large bipartisan group of Senators, to open up ANWR for drilling and to use the revenue to meet reconciliation instructions. These large oil and gas company subsidies only encourage those kind of developments by artificially increasing and subsidizing demand for new wells.

It also seems to me that there are compelling energy policy arguments against this tax break. To the extent that these subsidies stimulate drilling of domestic wells, they reduce our short-run dependence on foreign oil—but force us to deplete our own Nation's reserves at a faster rate. While oil is flowing freely to the U.S. from the Middle East and elsewhere, I see no reason to subsidize domestic drilling to such an extent.

Some will argue there are national security considerations here, and that we should preserve this subsidy because it helps to ensure the future of domestic producers. I think if we are so concerned about the national security implications of our reliance on foreign oil, then maybe we should be rethinking provisions to sell off the strategic

petroleum reserve that were included in this bill.

Others will claim that eliminating the expensing of IDC's would hamper domestic oil exploration, and that the industry's profit margins have declined steadily over the last 15 years or so as the alternative minimum tax has kicked in on some producers, and various lucrative other tax breaks have been slightly reformed. However, it is clear that most of the reason for this decline was not the increased tax burden, but the worldwide decline in oil prices. Experts from academia to industry analysts to CRS are agreed on that.

Finally, oil and gas companies will also argue that eliminating their expensing provisions will effectively raise costs for the consumer at the gas pump. The Congressional Budget Office has no formal projections of this cost increase, but I suspect that if there is any increase at all, it would only be a fraction of one cent per gallon at the gas pump. Much of any additional costs would be absorbed by oil and gas companies, as they strive to remain competitive in world markets.

Mr. President, this issue is complex, but in the end, it is not even a close call. As a recent CRS study on tax expenditures states, "There is very little, if any, justification for this non-neutral tax treatment of IDCs. Many economists believe that expensing is a costly and inefficient way to increase oil and gas output and enhance energy security . . ."

The oil and gas industry has for decades been enjoying a tax benefit that has not been available to other American industries, and so to eliminate it is really just to "level the playing field." For those who support a flat tax, or even a flatter tax rate structure than we have now made possible by closing special loopholes, this amendment is a good place to start. I urge my colleagues to make good on pledges to fairly and responsibly reduce the federal deficit by voting for this amendment. I yield the floor.

REPEAL CORPORATE WELFARE IN THE TAX CODE: ELIMINATE THE PUERTO RICO CREDIT

Mr. President, I rise to offer an amendment to repeal outright Section 936 of the Internal Revenue Code, which provides certain corporate income tax credits to firms doing business in Puerto Rico and the other U.S. Possessions. This repeal would become effective on January 1, 1997. It speeds up the repeal already provided for in the bill by, in some cases, 9 years, saving over $35 billion dollars in the process.

Let me be clear: the Finance Committee, for the first time in decades, has already acknowledged that this loophole should go; it is simply now a question of when, and how. For those who support a flat tax, or even a flatter tax rate structure than we have now made possible by closing special loopholes, this amendment is a good place to start.

This amendment is part of a larger attack on corporate loopholes to highlight something I have seen over and over in that short time: the political gap between the promise to cut spending, and actual follow-through on that promise. Between the promise of spending restraint, and actual spending restraint. Let me make a simple point here that is often overlooked. We can spend money just as easily through the tax code, through tax loopholes, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a government check or in the form of a tax break for some special purpose, like a subsidy, a credit, a deduction, or accelerated depreciation for this type of investment or that.

In the last few years, for example, many of us voted for billions in actual cuts on this floor—not gimmicks, not smoke and mirrors, not deficit reduction formulas that never identify precise cuts, but actual reductions in federal spending contained in actual amendments to appropriations bills. We have also voted consistently against continued wasteful and unnecessary defense spending contained in appropriations bills each year. And often it was precisely those who support the balanced budget amendment, and employ elaborate Heritage Foundation-concocted across-the-board spending cut formulas that do not contain any specific cuts, who voted against actual spending cuts on the floor. This is where the rubber meets the road, where the rhetoric meets reality. Many balanced budget amendment proponents have failed the test of political courage on this point, and I think that should be made clear.

These tax loopholes allow some taxpayers to escape paying their fair share, and thus make everyone else pay at higher rates. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes.

I think it is a simple question of fairness. If we are really going to make the over a trillion dollars in spending cuts and other policy changes that we would have to make to meet the balanced budget amendment targets, then we should make sure that wealthy interests in our society, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits.

That is just common sense, and I think we ought to signal today that the standard of fairness we will be applying will include elimination of at least some of these tax breaks. Too often, in discussions about low-priority federal spending which ought to be cut, one set of expenditures is notoriously absent. That is tax breaks for wealthy and well-positioned special interests.

Tax subsidies are heavily skewed to corporations and the relatively few people in very high-income brackets, while government benefits and services go in far larger proportions to the middle class and the poor. If it is harder to eliminate tax breaks or other preferences than cut programs, the burdens of deficit reduction are likely to be borne disproportionately by those in the bottom half of the income scale. The effect of this, of course, is a further transfer of political power up the income scale.

Many of these tax breaks are industry-specific, others were designed to encourage particular kinds of activities or investments, or to subsidize consumers of certain products. The General Accounting Office issued a report last year, in which they noted that most of these tax expenditures currently in the tax code are not subject to any annual reauthorization or other kind of systematic periodic review. They observed that many of these special tax breaks were enacted in response to economic conditions that no longer exist. In fact, they found that of the 124 tax expenditures identified by the Committee in 1993, about half were enacted before 1950. This one was enacted in its original form in the 1920's. Many of these industry-specific breaks get embedded in the tax code, and are not looked at again for years.

Now some will vote against this motion reflexively, arguing wrongly that this is simply an attempt to raise taxes. It is not. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes. The effect of allowing them to continue is to ensure that hard-working Americans will not be provided any tax relief, since all of the revenues that would pay for such relief are being soaked up by wealthy special interests. This amendment simply calls the question on one small part of the very targeted spending we do through the tax code, spending that is not subject to the annual spending process and is rarely debated on the floor of the Senate.

I suspect most Americans, if asked, would scale back the Puerto Rico tax break further rather than cut spending on prisons or police or environmental protections or workplace safety or Medicare or Medicaid. For that matter, for the amount of money generated by eliminating this tax break, we could pay for Head Start, meals-on wheels for the elderly, WIC, and the National Park Service for a year, and still have money left over.

This amendment eliminates outright the Puerto Rico subsidy, starting next year. In 1993, as we were preparing to consider the Reconciliation bill, I concluded that this tax credit should be phased out over a short period, given the other strains on the federal budget, and the need for further deficit reduction. While I was concerned that an immediate repeal might have too large and abrupt an impact on the economy of Puerto Rico, which was at the time reeling under a very high unemployment rate, I would have supported a prompt phase-out. While the 1993 Reconciliation Act did scale back somewhat the benefits provided to eligible companies under this provision, it failed to phase out the provision. And so now I think the time has come to repeal it outright, starting in 1996. That will put a stop to efforts by corporations who invest in Puerto Rico and the other U.S. Possessions to shelter profits and avoid paying their fair share of taxes.

Ostensibly a tax credit to encourage economic development in U.S. possessions, primarily Puerto Rico, the Section 936 tax credit has over the years evolved into a huge corporate loophole, providing a multi-billion offshore tax shelter for some of America's most profitable companies. While it has been narrowed, and some of the most egregious abuses addressed, it remains a fantastically expensive subsidy for a few special interests. That is unfair, Mr. President, especially when we consider all of the competing budget claims on these scarce federal funds. It is time to bring a halt to it.

Over the past several decades, as I have mentioned, 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 1993 OBRA bill took a step toward trying to reconfigure the section 936 credit as a wage-based credit by tying the amount of the credit, in many cases, to actual wages paid or investments made. But it also allowed corporations to receive the credit according to a generous alternative formula that continues to cost taxpayers billions per year. While this modest linkage between actual investments made and wages paid was a step in the right direction, it is still a credit that is no longer justifiable in this current budget crunch.

In 1993, Finance Committee Chairman Moynihan observed that the 936 program, as it is known, dates back to the 1920's. He said that the changes in the 1993 Reconciliation bill were done in such a way as to "clearly anticipate the phasing out finally of this measure." But that hasn't happened yet, and this amendment is designed to make sure that there is a final, clean termination of the program as soon as possible.

The bill before us today, while it recognizes that this provision must eventually be eliminated, provides for a very long phase-out, in some cases up to 10 years. I am very concerned that if we do not repeal this program now, which has been in the Tax Code in some form since the 1920's, it will continue to cost taxpayers billions of dollars per year, and that clever tax lawyers, lobbyists, and the companies for whom they work might even find ways to retain it in the Tax Code in the next few years.

Section 936 presents a very complicated set of calculations to derive the tax credit against taxable income, but the simple effect of this provision is to reduce the cost of corporate investment in territories, mainly Puerto Rico. Its purpose, quite obviously, was to attract investment in the struggling possessions; instead it has been used as major loophole for U.S.-based corporations to shelter taxable income.

While I recognize the economic impact that repeal of this provision will have on certain U.S. companies doing business in Puerto Rico—some of which are in my own state, the GAO's extensive 1993 report concluded that reliable estimates of the changes in corporate behavior could not responsibly be made, since that would require anticipating how many, if any, beneficiaries of the credit would move to other regions, would relocate or scale back their operations there. Of course, many other factors, including labor costs, productivity, transportation and infrastructure costs, and other tax consequences of their decisions would be considered by these firms.

Given this uncertainty, and the fact that this is a special subsidy available to firms nowhere else, I do not believe we can continue to subsidize the activities of a few large corporations at the expense of millions of American taxpayers. Companies that invest in Minnesota directly would love to benefit from a very generous tax credit like this, but they do not. Nor do firms in any other states, to my knowledge. It only applies to the U.S. possessions, with most of the benefits going to pharmaceutical, food, chemical, and instrument-manufacturing firms in Puerto Rico.

The costs of special interest corporate tax loopholes like this are often astronomical. This one is particularly expensive. The Congressional Budget Office has estimated that repealing this provision outright would save almost $20 billion over just 5 years. $20 billion. And about the same amount in the second 5 years. That money could be used to mitigate the huge cuts in Medicare and Medicaid, or in the EITC, that are made in this bill. It could be used to reduce the federal deficit.

I hope my colleagues will support this effort to scale back this longstanding tax break for a relatively few wealthy companies, and dedicate these funds for deficit reduction. How on earth can we continue to support giving a few major corporations this enormous tax break at the same time that cuts are being made in Medicare, Medicaid, and other programs that affect the most vulnerable among us?

Another problem with this tax credit program is that it draws investment away from the U.S. While this provision has over the years encouraged considerable investment in the possessions, that investment often came at the expense of corporations investing here. These investment effects are now amplified under NAFTA and GATT; just as 936 bleeds investment out of the States and into possessions where labor costs are traditionally cheaper, it may now act as an incentive for manufacturers to hold onto their operations in Puerto Rico, rather than moving to countries like Mexico or Singapore. I have heard over the years from many workers in my state who are upset about the transfer impact of this provision on Minnesota jobs.

Even if this provision could once have been justified as an economic development tool following the Second World War, that is no longer possible. A recent report of the Senate Budget Committee said ". . . the measure's cost in terms of foregone tax collections is high compared to the number of jobs the provision creates in Puerto Rico."

My colleagues will recall, I am sure, that our distinguished colleague, Senator Pryor, released a GAO study done several years ago in which it was pointed out that the primary beneficiaries of this provision are the large pharmaceutical companies that have located in Puerto Rico. Let us call this what it is: corporate welfare of the most stark kind.

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 Pryor revealed a number of shocking details. According to the GAO:

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. Now I know that these outrageous disparities were mitigated somewhat by the 1993 changes in the formula, but the fact remains that this is a very inefficient economic development subsidy. And even the more recent GAO report done in 1993 found that the ratio of a firm's tax benefits per employee was still far higher than the total wages paid to these employees.

The time has come to pull the plug on this corporate welfare program. At the same time that historic huge cuts in Medicare and Medicaid are being made, at the same time we are slashing student loans and the earned income tax credit, at the same time that we are slashing economic development funding in our own cities and rural areas, 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, continuing this credit for years while trying to balance the budget by 2002 is bad public policy. It is bad tax policy. It is bad budget policy. It cannot be allowed to stand, especially in the current budget climate. I urge my colleagues to support this amendment. I yield the floor.

ELIMINATE THE FOREIGN EARNED INCOME TAX EXCLUSION

Mr. President, I have already spent some time here on the Senate floor in an effort to close a number of tax loopholes. Underlying these efforts is a recognition that we must reduce the federal budget deficit in a way that is fair, responsible, and that requires shared sacrifice. Closing corporate welfare loopholes will help us do that.

At this point, I would like to address a loophole that will cost $8.9 billion over the next 5 years in lost receipts, and billions more thereafter. In other words, while American citizens all over this Nation will have to pay taxes over the next 5 years, a certain group of taxpayers will use this loophole during that time to get out of paying $8.9 billion in taxes. And over 10 years, that is about $18.4 billion that the rest of American taxpayers will have to make up in higher taxes or reduced services from their government.

The loophole is called the Foreign-Earned Income Tax Exclusion, and it allows Americans living overseas to earn the first $70,000 of their income entirely free of American taxes. While this Exclusion is related to the Foreign Tax Credit—which allows you to reduce your U.S. taxes by the amount you paid in taxes to a foreign government—the two should not be confused. The Foreign Tax Credit simply protects, on a dollar-for-dollar basis, against paying tax twice on the same income: once to the U.S. and once to a foreign government. The Exclusion entirely ignores the existence of $70,000 of the income you earned abroad, regardless of how much tax you paid on it. In short, it is an overly broad way to protect against double taxation, and it is unnecessary because of the existence of the Credit.

Some will charge that by closing this tax loophole, by restricting this special interest tax break we are somehow proposing to raise taxes. They are wrong. What they fail to understand is that even with the reforms of the mid-1980's, which closed many of the most egregious tax loopholes, the presence of tax breaks in the current tax system forces middle class and working people to pay far more in taxes than they otherwise would have to pay. While some are paying less than their fair share in taxes because of this special tax subsidy for people working abroad, those who work in the U.S. are being forced to pay more in taxes to make up the difference. Closing this tax loophole is not raising taxes.

When taxpayers in my State of Minnesota file their returns every year, they are not allowed to disregard $70,000 of their income. So why do we let Americans living abroad to take advantage of this loophole?

When it first came on the books in 1926, the Exclusion was said to help support U.S. trade because it was a tax break for U.S. citizens living abroad that were promoting trade between the U.S. and foreign countries. However, since then there has been a constant tension between those fighting for tax equity (who want to close the loophole) and those who believe that the loophole actually benefits U.S. trade abroad (who have actually tried, at times, to expand the loophole, i.e, raise the Exclusion above the current $70,000).

Clearly, in deciding whether or not to eliminate a special tax break, we need to balance the good effects against the bad. In this age of telecommunications and global markets we no longer need to give a special tax break in order to promote foreign trade, nor is it clear that this particular tax break does promote foreign trade. To quote from a Senate Budget Committee print:

"The impact of the provision is uncertain. If employment of U.S. labor abroad is a complement to investment by U.S. firms abroad—for example, if U.S. multinationals depend on expertise that can only be provided by U.S. managers and technicians—

then it is possible that the exclusion has the indirect effect of increasing flows of U.S. capital abroad." [Tax Expenditures: Compendium of Background Material on Individual Provisions, Senate Budget Committee Print 103-101, December 1994, p. 22].

Three times between 1962 and 1978, Congress passed laws to limit and finally eliminate the Exclusion. But in 1981, the giveaway returned, bigger than ever and with a built-in yearly increase. The enormous cost of the loophole led Congress to enact a 4-year freeze in its size in 1984 at $80,000, with $5,000 annual increases to resume in 1988. That ultimately proved too rich for Congress, and the 1986 Tax Reform Act brought us to where we are today: a hefty $70,000 Exclusion that will cost the Treasury about $1.6 billion before this calendar year is out.

A 1994 Senate Budget Committee print describes one negative effect of the provision:

"The exclusion's impact depends partly on whether foreign taxes paid are higher or lower than U.S. taxes. If an expatriate pays high foreign taxes, the exclusion has little importance; the U.S. person can use foreign tax credits to offset any U.S. taxes in any case. For expatriates who pay little or no foreign taxes, however, the exclusion reduces or eliminates U.S. taxes. Available data suggest that U.S. citizens who work abroad have higher real incomes, on average, than persons working in the United States. Thus, where it does reduce taxes the exclusion reduces tax progressivity." [Tax Expenditures: Compendium of Background Material on Individual Provisions, Senate Budget Committee Print 103-101, December 1994, p. 20]

In other words, if a foreign country has taxes as high or higher than the U.S., the foreign tax credit may help to achieve the goal of preventing double taxation. But where taxes are lower, the Exclusion provides a windfall for people who make more than the average person who stays in the U.S. make a living.

When you see a long-lived whopper of a loophole like this, you have to wonder who is fighting to save it. Some light is shed on this question by the IRS's Statistics of Income Bulletin from Fall 1994. It tells us that while only two-tenths of one percent of people filing individual tax returns in 1991 claimed the Exclusion, 45 percent of those claiming the Exclusion ultimately ended up with no income tax liability. In plain English, that means that almost half of the people who got to use the loophole in 1991 didn't have to pay U.S. income taxes.

Now that we see the substantial benefits this Exclusion can bestow upon a foreign-resident American who takes advantage of it, let us see who those people tend to be. Well, it might interest my colleagues to know that the total foreign-earned salaries and wages in 1991 for Americans living in Saudi Arabia were the third-highest in the world, right behind the United Kingdom and Hong Kong. I am all for Americans making a good living, but there is something particularly interesting about those living in Saudi Arabia: that country charges no income tax on those earnings. Thus we have the exact situation the Budget Committee print warns against: where the foreign taxes are lower than U.S. taxes, the Exclusion reduces U.S. taxes paid; and where higher-than-average earners receive reduced taxes, our income tax system becomes less progressive.

But do not stop there. A smattering of unorganized Americans living in Saudi Arabia is not likely to pack enough political clout to be able to protect a taxpayer give-away like this one. There must be some other force here, somebody with money and political punch. That's where the major multinationals like the oil companies come in. Through private agreements with their employees, these corporations arrange to pocket the windfall that comes to employees when they are detailed to Saudi Arabia and other low-tax countries and become eligible for the Exclusion. These agreements provide that when an employee goes to work overseas, the employee's standard of living will not be changed. While that could mean a generous protection for employees in high-tax countries, in low-tax countries it is the employer who is receiving the benefit, this time at the expense of the American taxpayer.

Now it all makes sense. We have this unjustifiable loophole in our tax system so that huge oil companies and other multinationals can pocket yet another subsidy. Of course, this subsidy is hidden in the tax code because it would be hard (or at least embarrassing) for Congress, in the full light of day, to directly subsidize the oil industry—especially under current budget constraints. By eliminating this tax break, we could make the tax system fairer, flatter and simpler—goals which all of us share.

I urge my colleagues to vote for this amendment. I yield the floor.

ELIMINATE CORPORATE WELFARE BY STRIKING RELAXATION OF ALTERNATIVE MINIMUM TAX

Mr. President, I am offering this amendment to strike from the reconciliation bill the provision to eliminate the Alternative Minimum Tax (AMT), and to use the billions in savings generated from this amendment to reduce the federal deficit.

The AMT was put into the law as part of the 1986 Tax Reform Act. As many of my colleagues will recall, the effort during 1986 tax reform was to simplify the tax code as well as infuse some elements of fairness into the tax code. In 1984, two years before tax reform became law, the non-partisan research group Citizens for Tax Justice did a report that found 130 of 250 of the major American corporations had paid nothing in federal taxes during at least one of the five years from 1981 to 1985. Among the companies were Champion International, Dow Chemical, Phillips Petroleum, Texaco, Shell, and Mobil. We must not return to that scandalous record of tax avoidance by relaxing, and for some firms even repealing, the alternative minimum tax. But that's the way this bill would take us. The Treasury Department estimates that if the AMT is repealed, by the year 2005 we could have more than 76,000 corporations not paying taxes.

Because the other thing that we should remember about 1986 Tax Reform is that together with getting rid of many tax breaks for corporation and wealthy individuals, we lowered tax rates for everyone—it was a trade off.

The Alternative Minimum Tax became law in response to the egregious level of tax avoidance by many large and profitable corporations. Indeed the official summary of the Tax Reform Act of 1986 states: "Congress concluded that the minimum tax should serve one overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits. . . . It is inherently unfair for high-income taxpayers to pay little or no tax due to their ability to utilize tax preferences." The same holds true now. The AMT is still necessary to prevent abuses, it has worked, and we should not be effectively repealing it.

The AMT ensures that corporations and individuals that receive large tax savings by making use of tax deductions and exemptions pay at least a minimum amount of income tax. In very simple terms this is how it works. If corporations and individuals calculate their tax and find that they owe nothing, the AMT kicks in with a set of rules so these companies and individuals pay at least something. Under the AMT certain items are designated as so-called "preference" and those items are taxed at the regular rate. If the AMT is higher than the regular tax, the higher alternative tax is the tax that is owed.

The AMT imposes a lower tax rate rather than the regular tax rate. However, the AMT tax applies to a broader range of items in the tax base. It negates the benefit of many of the preference and exclusions that a company or individual might benefit from under the regular income tax system.

The Finance Committee provisions of reconciliation make changes to the AMT that in some cases would effectively eliminate it. According to the Joint Tax Committee these provisions could cost an estimated $9.2 billion in corporate tax breaks over then next five years. The House-passed version of this provision will costs taxpayers about $25 billion, so we know that it's only likely to get worse if we don't knock out this provision here.

Beginning next year the AMT would be reduced for both corporations and individuals. It would allow taxpayers to take most of the tax writeoffs which are not currently allowed under the AMT, such as accelerated depreciation and intangible drilling costs, for purposes of the AMT and thus reduce the portion of income that would be taxed under the AMT. This would effectively eliminate the core of the AMT because the tax would be the same under the AMT and the regular tax system.

The bill would allow corporations to apply past payments of the AMT toward the payment of future years tax by up to 50%, as long as a corporation's tax liability was not below the newly-reduced AMT. Under current law, corporations are allowed to use prior tax payments of the AMT to reduce their current regular tax liability, but only down to the amount of AMT tax. In other words, Mr. President, this proposal would eliminate the floor that the AMT was supposed to provide.

Mr. President, I believe reconciliation should be for reducing the deficit, not for giving more aid to dependent corporations in the form of new tax breaks for wealthy individuals and big business. Corporations and wealthy individuals should not escape their fair share of the tax burden through tax shelters. In this day of severe budget cuts, when we are all asked to tighten our belts, we should not excuse the most wealthy of our country from that obligation.

To add insult to injury, this legislation would substantially increases the tax burden on working families and the poor by restricting eligibility for the Earned Income Tax Credit while scaling back the AMT on corporations and wealthy individuals. This is the quintessential shift of tax burden from the very wealthy to low and moderate income working families. How can we in good conscience increase taxes on 17 million low-income working families while at the same time decrease taxes on the wealthiest people in this country, those making hundreds of thousand of dollars annually?

During the debate on the balanced budget amendment, Republicans repeated over and over again that we need to balance the budget to provide for a better future for our children and grandchildren. But now that we

have before us the actual plan for balancing the budget (which actually will do no such thing) we can see what they're offering everyone: a tax cut for the well off, and a higher bill for the middle class.

This kind of a tax break benefits the very high-income people with wealth and power and clout, and corporations with high-powered lobbyists. They're the big political campaign contributors, the people who spend $50,000 per person to attend small, intimate dinners to support the pet political causes of certain politicians; they're the wealthy corporate interests who are well-represented in Washington, while average Americans are left out in the cold.

Repealing the AMT would undoubtedly take us back to the days when corporate America was making billions in profits and paying little or no tax. That is not the direction we should be going. It is not good for the economy and it is not good for the citizens of this country.

Some would argue that the AMT has been burdensome on business, especially small business. Some claim that it increases taxes and thus reduces return on capital and makes continued investment difficult. They are wrong. If we are all supposed to be tightening our belts to reduce the budget deficit and ultimately reach a balanced budget, asking profitable firms to pay at least some income tax, as everyone else is required to do, is simple fairness and common sense.

Indeed, our tax code is already filled with too many tax breaks for special classes or categories of taxpayers. We should be repealing those tax breaks instead of considering a bill that adds more giveaways to the rich while increasing the burden on the working families. I think it's a simple question of fairness. If we are really going to cut billions of dollars in government spending and other policy changes to achieve a balanced budget, then we should make sure that wealthy interests in our country, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits.

I urge my colleagues to vote for this amendment. I yield the floor.

Mr. DOMENICI. Mr. President, we are 51-percent dependent upon imported oil. If you want to become 100-percent dependent, just adopt this amendment.

This amendment violates the Budget Act, is not germane, and I make a point of order under the Budget Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mrs. FEINSTEIN] is necessarily absent.

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

The yeas and nays resulted—yeas 25, nays 73, as follows:

[Rollcall Vote No. 521 Leg.]

YEAS—25

Akaka	Inouye	Murray
Boxer	Kennedy	Pell
Bradley	Kerrey	Reid
Bryan	Kerry	Sarbanes
Conrad	Kohl	Simon
Exon	Leahy	Snowe
Feingold	Levin	Wellstone
Harkin	Mikulski	
Hollings	Moynihan	

NAYS—73

Abraham	Dorgan	Lugar
Ashcroft	Faircloth	Mack
Baucus	Ford	McCain
Bennett	Frist	McConnell
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Nunn
Brown	Grams	Pressler
Bumpers	Grassley	Pryor
Burns	Gregg	Robb
Byrd	Hatch	Rockefeller
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Specter
Craig	Johnston	Stevens
D'Amato	Kassebaum	Thomas
Daschle	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dodd	Lautenberg	Warner
Dole	Lieberman	
Domenici	Lott	

NOT VOTING—1

Feinstein

The PRESIDING OFFICER. On this vote, the yeas are 25, and the nays are 73. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

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

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, Senator EXON and I want about 3 minutes each to address the Senate with reference to the process for the remainder of the time on this bill.

The PRESIDING OFFICER. There is no time left on the bill. It will take a unanimous-consent request.

Mr. DOMENICI. I ask unanimous consent that I and Senator EXON be permitted to speak for 3 minutes each to explain to Senators where we are and what we expect of them in the next couple of hours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, let me explain to the Senators where we are, and I will then yield obviously to Senator EXON.

We are next going to vote on the substitute budget resolution by Senators SIMON and CONRAD. And then we have only one amendment left in the so-called second tier, the tier about which we have agreed to have 5 minutes on each side of debate. That is the Roth Finance Committee amendment. Excuse me, Senator PRYOR on nursing homes is next, and SIMON-CONRAD on the substitute follows that, and the Roth Finance Committee amendment. They are circulating parts of it to the various staff. And I talked to Senator GRAHAM of Florida. We are trying to get the staff involved very soon. But those are the three that are left on that part.

Then we come to that ominous group, that nebulous group that is called third tier. We have invented that term. But that means all the other amendments that anybody would like to offer.

I might mention that we have been waiting for a list, and we do not have a list. But the minority leader is working to try to get that list.

The minority leader and the majority leader suggest the following: If you have amendments that you intend to call up in that period of time when there is little or no time to discuss them, we would ask Senators to submit their amendments to the desk so that they will be with the clerk, and then submit them to Senator EXON and Senator DOMENICI at our desks so that we will have some idea by the time we finish tier 2 of what amendments we have to consider.

It is very important for everyone, to all Senators—not we as managers—that we establish some order for that series of amendments. So I urge that all Senators who have amendments to get them to the desk, not have them circulating around here, and get them to the manager and the ranking member's desk here in the Senate.

I yield now to Senator EXON.

Mr. EXON. I agree completely with what the chairman has said. I simply remind all that if you file your amendments now in a timely fashion, as we have indicated, giving a copy to each of us, when we get into the voting procedures on these amendments we will try and give priority consideration as nearly as possible with regard to how they were filed to give some incentive for people to file the amendments.

We are trying to get together, as the chairman has said, the definitive list on this side. We do not have a list of all of the amendments that are proposed on the other side. This is a way to get that worked out. Numerous Senators have come to me and have said, "What plan should I make with regard to leaving Washington, DC, this weekend?" I said that is very, very much up in the air.

I would simply say that my best guess at the present time is that we have, as of now, a minimum—I emphasize the word "minimum"—on both sides of the aisle of somewhere around 50 individual separate amendments to be considered. Multiply that out. Even at a limited 10-minute timeframe, you can see we are talking about a minimum of 8 hours of steady voting, which

should give everyone pause for consideration if they have any visions of leaving sometime this evening for obligations that they have elsewhere.

Therefore, I hope we can continue to whittle down the amendments. We have been tremendously successful thus far on this side. We started out with about 120. Right now I think we are down to somewhere between 41 and 45. That is still an awful lot. But we have come a long, long way, and we intend to go further. Suffice it to say that if we are going to have the cooperation that is necessary while allowing each Senator rights as guaranteed to offer the amendments, then we are going to have to have some restrictions in the better understanding than we have right now on both sides with regard to limiting the amendments.

So I hope that all will agree with the suggestion made by the chairman, which I agree with completely. We have checked this, as I understand it, with both the minority leader and the majority leader. At least that is the best chance we have of moving forward in as expeditious a fashion as possible. I use that word advisedly.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I want to confirm what the ranking member and the chairman have indicated. The majority leader and I have talked about how we are going to proceed now with the third tier. I urge Senators to accommodate our two ranking members. They have been working with us very carefully and closely.

I think the only way we can accommodate the schedule for the balance of the day is to do what the chairman has suggested. We have talked to all of our colleagues on this side of the aisle. We know approximately what the list is. We do not have the text of any of the amendments. They need to be filed within the next hour. And then the list needs to be provided to the ranking member so we can begin to put the list in order.

So I urge everyone's cooperation to allow us to get through this list as expeditiously as we can but also as knowledgeably as we can. No one on the Republican side has seen the text of any of our amendments. We have not seen the text of their amendments. The only opportunity for us to look at the text is while we are voting on additional amendments.

So it is important that everyone come forth and bring their amendments to the desk, and allow us to list them officially. Then we will begin considering them.

I thank the Chair.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired. There are 40 seconds left to the other side.

Mr. DOMENICI. Would Senator GRAHAM like to ask me a question?

Mr. GRAHAM. If the Senator will yield for a question, does he have any idea when we will have an opportunity to get to review the Finance Committee amendment?

Mr. DOMENICI. Fellow Senators, let me just add to what we said heretofore. I have been asked by Senators what time we can get out of here. So my comments are attempting to accommodate you. I think sometime within the next couple of hours we will have made all the major votes, taken all the major votes, and will have decided all the major issues. So I do not think we should stay around here until 12 o'clock tonight. We are going to do our best to expedite things.

Mr. GRAHAM. The question is, When will we have an opportunity to review the Finance Committee amendment?

Mr. DOMENICI. I just spoke to Senator ROTH. He said that his staff is going to exchange views with your staff and other staff. They are already going to give you parts of the amendment, which are ready. They are going to do that right now. And we will just go from one step to another. But you will have part of it quickly.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EXON. Mr. President, the first amendment has been handed to both sides by Senator SIMON, an important step in the right direction. We hope all will follow.

Second, I would suggest that if possible—we cannot insist on this—I would suggest that Senator SIMON and all that will follow with this process to try to add a one- or two-sentence explanation of what their measure is intended to do. That will help expedite things on all sides.

AMENDMENT NO. 2983

The PRESIDING OFFICER. The next vote occurs on the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered.

There are 30 seconds to each side.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Arkansas.

The PRESIDING OFFICER. Let us listen to the Senator from Arkansas for 30 seconds. Senators clear the well, please.

The Chair cannot hear the Senator from Arkansas.

The Senator from Arkansas is recognized for 30 seconds.

Mr. PRYOR. I thank the Chair.

Mr. President, this amendment is offered by myself and Senator COHEN and several of our colleagues. This amendment very simply reinstates the nursing home standards that we adopted in 1987 with a bipartisan effort. These standards have worked. They have worked well. They have saved money. The nursing home industry is not trying to repeal these standards. And we are going to hear that another proposal from the other side of the aisle is going to fix this issue. But I will say, Mr. President, we have not seen all of the ramifications. We know that there is a gaping hole——

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

Mr. PRYOR. In the waiver process and that there are no standards going to be submitted on the other side.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator COHEN's proposal with reference to this issue is going to be incorporated in the Republican, in Senator ROTH's, proposal. I urge that Republican Senators vote against this amendment because it is going to be taken care of and in some respects even be better than this amendment. It will be part of the package, and we are sorry we cannot give it to you yet. But it is Senator COHEN's proposal that is incorporated in the Republican package.

Mr. PRYOR. Mr. President, will the Senator from New Mexico yield for a question?

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Senator from Arkansas be given an additional 30 seconds.

Mr. PRYOR. I just want to ask a question, Mr. President.

The PRESIDING OFFICER. Is there objection to additional time?

Mr. DOMENICI. I will not object this time, but I really do not think we can do it every time.

Mr. PRYOR. Mr. President, if I can ask my friend from New Mexico, is the so-called nursing home regulation or standard fix, is this a part of the larger omnibus Finance Committee package that none of us have seen?

Mr. DOMENICI. Yes. That is right.

Mr. PRYOR. I thank the Chair.

Mr. DOMENICI. Senators will see it shortly.

The PRESIDING OFFICER. Is all time yielded back?

All time is yielded back. The question is on agreeing to the Pryor amendment No. 2983. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

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

[Rollcall Vote No. 522 Leg.]

YEAS—51

Akaka	Biden	Boxer
Baucus	Bingaman	Bradley

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

NAYS—48

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

So the amendment (No. 2983) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2984

The PRESIDING OFFICER. The next amendment is the Simon amendment No. 2984 with 30 seconds for each side.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent for 1 minute for an exchange of views between the managers——

The PRESIDING OFFICER. The Senate will come to order. There is a request for additional time. The Senator from Nebraska wants 1 minute; is that the request?

Mr. EXON. After consultation with the two leaders, and the managers of the bill, it is our feeling——

The PRESIDING OFFICER. Is there an objection to the Senator's request?

Without objection, it is so ordered. The Senator's request is granted.

The Senator from Nebraska.

Mr. EXON. After consultation with the two leaders, Senator DOMENICI and myself, and others, we would simply say that we have two amendments left on what we have referred to as tier two. That is the Simon-Conrad deficit-reduction amendment, and then the final one, the Roth Finance Committee amendment.

We are now on Simon-Conrad. We will move ahead in the usual fashion. It is our suggestion then that there be an agreement that the Roth amendment will be put indefinitely aside for later consideration to give all a chance to look at some of the details of that, and allow us to move then to the so-called tier three category, and begin votes, and bring up the Roth Finance Committee amendment at the call of the chairman.

Mr. GRAHAM addressed the Chair.

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

The Senator from Florida.

Mr. GRAHAM. Was that in the form of a unanimous-consent request?

Mr. EXON. No. That is simply to state what we hope we could do.

The PRESIDING OFFICER. There is no further time for debate unless you ask for it. The Senator from New Mexico is entitled to 30 seconds at this time.

Mr. DOMENICI. Mr. President, I compliment the sponsors of this amendment and make just two observations. We have heard a lot of debate on the floor of the Senate that all we needed to do to save Medicare was $89 billion. Actually, it is interesting to note that this Democratic proposal requires $168 billion in savings for Medicare. It is all too interesting to note that much has been said about us doing too much on the programs of senior citizens.

I just say that this amendment has $268 billion in program reductions that affect senior citizens. That brings it to at least the same level as the Republican package, if not more. We are not going to vote for it on this side. But we commend the Senators for their realism in acknowledging that these kinds of things have to be done.

Mr. EXON. Mr. President, I had hoped that I would hear from the chairman on the suggestion that I made. I have heard nothing from him on that. He went into the debate. I have not yielded the 30 seconds yet that I have, which I will do.

The PRESIDING OFFICER. The two leaders on the floor cannot hear one another. The Senator from New Mexico does not realize, in the Chair's opinion, that he had 30 seconds to respond to the Senator from Nebraska. Does the Senator wish 30 seconds to respond?

Mr. DOMENICI. To respond to his request about setting aside this amendment or this bill?

The PRESIDING OFFICER. The Senator from Nebraska asked for 1 minute, equally divided, to discuss the question that he asked the Senator from New Mexico. Does the Senator wish to respond?

Mr. DOMENICI. Mr. President, with reference to the Roth amendment, we will acknowledge that the other side deserves ample time to review it. We do not intend to call it up next. We intend to set it aside and provide ample time for its review. It will be taken up in due course, but not next under this list.

The PRESIDING OFFICER. All time has expired except for 30 seconds.

Mr. EXON. I yield 30 seconds to Senator SIMON.

MODIFICATION TO AMENDMENT NO. 2984

Mr. SIMON. Mr. President, I send a modification to the desk, and I ask unanimous consent that I may modify my amendment.

I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The modification is as follows:

On page 18 of the amendment delete subtitle B.

Mr. SIMON. Mr. President, this amendment is cosponsored by Senators CONRAD, ROBB, and KERREY. It eliminates the tax cut, reduces the CPI 0.5 percent, which is less than the experts have recommended. That means, for the median person on Social Security, $3.85 a month. For that, you get more than $100 billion in Medicare, more than $100 billion in Medicaid, $36 billion in welfare, and you eliminate the cuts in education. It has bipartisan support in the House, and I hope it can have that here in the Senate.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 2984, as modified.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 19, nays 80, as follows:

[Rollcall Vote No. 523 Leg.]

YEAS—19

Akaka	Graham	Nunn
Bradley	Johnston	Pell
Breaux	Kerrey	Pryor
Conrad	Leahy	Robb
Dodd	Levin	Simon
Feinstein	Lieberman	
Glenn	Moynihan	

NAYS—80

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

So the amendment (No. 2984) was rejected.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. KYL. Mr. President, on rollcall vote 518, I voted "no." My intention was to vote "aye." I ask unanimous consent that I be permitted to change my vote, which in no way would change the outcome of the vote.

(The foregoing tally has been changed to reflect the above order.)

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

Mr. DOLE. If I could inform my colleagues where we are and where we are headed.

The PRESIDING OFFICER. Is the Senator using leader's time?

Mr. DOLE. I will use my leader's time.

We are now ready to proceed to the third tier. So we have some order and know what we are voting on, I will request that the two managers each have 30 seconds to explain their amendment, or maybe they do not need explanation. The votes on the pending amendments will be 7½ minutes in length.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, Mr. President, the last item on tier 2, what is going to be its disposition?

Mr. DOLE. The last item?

The PRESIDING OFFICER. The Chair advises the Senator from Florida there is no amendment before the desk.

Mr. GRAHAM. I was asking a question. We have been proceeding under a unanimous-consent request, taking up amendments under tier 2.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOLE. Under my leader's time, we will postpone action on that, and we have talked to the Democratic leader and the manager of the bill, and that gives everybody a chance to look at it, study it, and bring it up sometime later.

Mr. GRAHAM. Does the majority leader have an indication of when we can see the legislative language?

Mr. DOLE. Probably the time we get to see the list of tier 3 amendments on that side.

Mr. GRAHAM. So we have no indication of when?

Mr. DOLE. As quickly as we can.

The PRESIDING OFFICER. Is there further debate?

Is there any objection to the request of the Senator?

Mr. BRADLEY. Would the Chair restate the Senator's request?

Mr. DOLE. That the two managers have 30 seconds to explain the amendments and then have 7½-minute votes.

Mr. SIMON. Reserving the right to object, why not go to 5 minutes?

Mr. DOLE. It is not possible for the clerk to do it any more quickly than 7½, plus there is always one or two that never get the message and are rolling around out here somewhere.

Mr. WELLSTONE. Reserving the right to object, did the 1 minute apply to the Roth?

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, using my leader time——

Mr. DOLE. All we have is 7½ minutes, so I am asking we have 30 seconds, for the managers to have 30 seconds. I do not include the 7½.

Mr. DASCHLE. Mr. President, using my leader time, let me emphasize we have asked all Senators to turn their lists in, their amendment in—we hope it is not a list, but an amendment—by noon. The amendment ought to be filed by noon, and it ought to be turned in to the managers by noon.

That is the only way I am going to put it on a list. If I do not have that amendment by noon, it is not on the Democratic list. So it is very important everybody cooperate to the extent that we have 40 minutes, now, to file the list and compare our lists so we can get on with our work.

The PRESIDING OFFICER. Is there objection to the majority leader's request for 30 seconds on each side before each amendment?

Mr. GRAHAM. Yes, there is objection.

The PRESIDING OFFICER. Objection is heard. There is no further time for debate.

Mr. DOLE. No debate, no explanation of amendments. Let us vote.

The PRESIDING OFFICER. Is there an amendment to present?

The Senator from Pennsylvania.

AMENDMENT NO. 2985

(Purpose: To restore funding for Medicare disproportionate share hospital payments)

Mr. SPECTER. Mr. President I call up amendment No. 2985. I ask unanimous consent there be 1 minute equally divided to comment on the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent for 1 minute on a side to explain his amendment. Is there objection?

Mr. DOLE. Wait a minute. There has already been an objection. I want to be sure the Senator from Florida has a right to object to this request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania for 1 minute on each side, to explain his amendment and to answer that explanation?

Mr. EXON. I reserve the right to object. Is the Senator suggesting a different proposal than what the majority leader did?

The PRESIDING OFFICER. For the amendment he submitted to the desk, he asks for 1 minute on a side on his amendment.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2985.

On page 539, line 16, strike all that follows through page 541, line 9.

Mr. SPECTER. Mr. President, I ask unanimous consent for 15 seconds to explain this amendment.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I ask for 30 seconds for the managers on each side to discuss the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the amendment. All in favor say aye?

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. 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. DOLE. 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. DOLE. Mr. President, let me restate my request in a little different way, which has been cleared by the Democratic leader and the two managers: That there be 30 seconds by each manager to explain the amendment, unless they designate the sponsor of the amendment to make that 30-second explanation.

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

The Chair is in doubt. That applies to all further amendments on this bill, is that correct? Does that apply to all further amendments on this bill?

Several Senators addressed the Chair.

Mr. DOLE. Yes, except the Roth amendment.

The PRESIDING OFFICER. Except the Roth amendment. With the exception of the Roth amendment, that is the order for the balance of this bill. All amendments, 30 seconds to each side. The managers to have the right to designate the sponsor or principal objector?

Mr. DOLE. Right. We would hope they would cooperate with the managers and let the managers give a very short explanation. I think the managers are prepared to do that. We are just trying to move the bill along. This will accommodate those who feel strongly about their amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I do not object. The point is that, if an objection is made, there will be no time.

The PRESIDING OFFICER. That is correct. If there is an objection, there will be no time.

Is there an objection?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator has no time. The manager has to designate the sponsor.

Mr. DOMENICI. I yield 30 seconds to Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this bill cuts out—if there may be order, Mr. President—this bill cuts out $14.5 billion from disproportionate share payments, and indirect medical education which cripples the major hospitals and the major teaching institutions. And this amendment reinstates $4.5 billion.

I yield back the remainder of my time.

The PRESIDING OFFICER. Time is yielded back.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

Mr. DOMENICI. In opposition?

The PRESIDING OFFICER. In opposition to the amendment?

Mr. ROCKEFELLER. I am speaking in favor of the amendment.

The PRESIDING OFFICER. No. There is no time for that.

Mr. EXON. Is there anyone who seeks to speak in opposition?

The PRESIDING OFFICER. That is not the agreement. The Senator from Nebraska has the time to designate the spokesman in opposition to the amendment.

Mr. EXON. I yield 30 seconds to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this would just throw out all of the effort we spent—weeks and weeks trying to deal with this issue. It would put $4.5 billion back into the pot. We have had all this redistribution. We have worked on it very hard in a bipartisan way.

I hope this amendment will be soundly defeated. I regret that it is not subject to a point of order. But it is a motion to strike.

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

Is there a request for the yeas and nays?

Mr. SPECTER. I request the yeas and nays, Mr. President.

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

The bill clerk called the roll.

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

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 524 Leg.]

YEAS—47

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

NAYS—52

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

So, the amendment (No. 2985) was rejected.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair has been requested to ask Senators to stay out of the well during debate.

Is there an amendment?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2992

(Purpose: To amend title 4 of the United States Code to limit State taxation of certain pension income)

Mr. EXON. Mr. President, the following has been cleared by the majority manager.

Mr. President, on behalf of the Senator from Nevada, Senator REID, I send an amendment to the desk on source taxation and ask unanimous consent that further reading of the amendment be dispensed with; that the amendment be agreed to, and that the motion to reconsider be laid upon the table.

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

So the amendment (No. 2992) was agreed to, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§ 114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantial equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the receipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

AMENDMENT NO. 2993

(Purpose: To provide for additional technical and conforming amendments related to the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, and for other purposes)

The PRESIDING OFFICER. The bill is open to amendment.

Is there an amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I send a technical amendment to the desk on behalf of the Banking Committee 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 Mr. D'AMATO, proposes an amendment numbered 2993.

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

Mr. DOMENICI. Mr. President, this is agreed to on both sides. I ask that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

So the amendment (No. 2993) was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 2994

Mr. DOMENICI. Mr. President, I have an amendment for Senators HUTCHISON, MCCAIN, LIEBERMAN, and others. It has been cleared on both sides, as I understand it. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN, proposes an amendment numbered 2994.

Mr. DOMENICI. I send that amendment to the desk and ask unanimous consent that further reading be dispensed with, the amendment be agreed to, and the motion to reconsider be laid upon the table.

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

Mr. BRADLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. BRADLEY. Will the Senator state what the amendment is?

The PRESIDING OFFICER. If the Senate will be in order, the Senator did state that he had an agreement from both sides.

Mr. BRADLEY. Will the Senator state what the amendment is?

The PRESIDING OFFICER. Did the Senator from New Mexico hear the Senator's request?

Mr. DOMENICI. He wants to know what is in the amendment.

This is a sense of the Senate with reference to Yugoslavia that has been cleared on all sides.

Mr. BYRD. Mr. President, unless we have an understanding of what this amendment is, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

Sense of the Senate on continued human rights violations in the former Yugoslavia.

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

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senate will be in order.

Mr. DOMENICI. Mr. President, can we withdraw the amendment.

Mr. DOLE. Withdraw the amendment.

The PRESIDING OFFICER. It will take unanimous consent to withdraw the amendment.

Mr. DOMENICI. All right, let us proceed.

The PRESIDING OFFICER. Stop the reading.

Mr. DOMENICI. I ask unanimous consent that we be permitted to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

So the amendment (No. 2994) was withdrawn.

Mr. DOMENICI. I did not do that because I oppose the substance. I just do not want to set a pattern that we are going to waste a lot of time on amendments so that is why I withdraw it.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2988

(Purpose: To strike the provision authorizing oil and gas development in the Arctic National Wildlife Refuge while preserving a balanced budget by 2002)

Mr. EXON. Pursuant to the previous agreement, the Senator from Montana has submitted an amendment to the desk. I would hope that it would be the time when we could let him offer that amendment, and I yield 30 seconds for that purpose to the Senator from Montana.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOMENICI. Mr. President, do we have that amendment?

I do not believe we can proceed in this manner. I could not possibly take 30 seconds in opposition because I do not have the amendment.

The PRESIDING OFFICER. The amendment is at the desk.

Is the Senator from Montana calling up his amendment?

Mr. BAUCUS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. Which number does the Senator call up?

Mr. BAUCUS. It is the ANWR amendment, Mr. President.

Mr. DOMENICI. OK, let us proceed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG, proposes an amendment numbered 2988.

Mr. BAUCUS. 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 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

The PRESIDING OFFICER. Thirty seconds on each side.

Mr. BAUCUS. Mr. President, this amendment strikes the provision opening the Arctic National Wildlife Refuge to oil and gas drilling. To offset the loss of revenue from ANWR drilling and to keep the budget balanced in 2002, the amendment also strikes the sale of the naval petroleum reserves.

Opening Arctic Wildlife Refuge to oil drilling will seriously disrupt precious natural resources, will do nothing to enhance our energy independence, and it will not generate the amount of revenue that the proponents claim.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this would increase the deficit by nearly $3 billion over the next 7 years. I think everybody knows the issue with reference to ANWR.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I move to table.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Yes, we yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE. Move to table.

Mr. DOMENICI. I move to table the 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 clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 525 Leg.]

YEAS—51

Abraham	Faircloth	Kyl
Akaka	Ford	Lott
Ashcroft	Frist	Lugar
Bennett	Gorton	Mack
Bond	Gramm	McCain
Breaux	Grams	McConnell
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Pressler
Coats	Hatfield	Santorum
Cochran	Heflin	Shelby
Coverdell	Helms	Simpson
Craig	Hutchison	Smith
D'Amato	Inhofe	Stevens
DeWine	Inouye	Thomas
Dole	Johnston	Thurmond
Domenici	Kempthorne	Warner

NAYS—48

Baucus	Feinstein	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Nunn
Bradley	Hollings	Pell
Bryan	Jeffords	Pryor
Bumpers	Kassebaum	Reid
Byrd	Kennedy	Robb
Chafee	Kerrey	Rockefeller
Cohen	Kerry	Roth
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Simon
Dodd	Leahy	Snowe
Dorgan	Levin	Specter
Exon	Lieberman	Thompson
Feingold	Mikulski	Wellstone

So the motion to table the amendment (No. 2988) was agreed to.

Mr. EXON. 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 bill is open to amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

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

Mr. DOMENICI. Mr. President, let me say to Senators who contemplate offering amendments that unless we have seen a copy of the amendment before you offer it, we are going to offer a second-degree amendment, because there is no way to state the case if we have never seen it. We have three now that we have seen that are the next three. I am dealt this process; I did not invent it, but we are stuck with it. We are going to make it as orderly as we can. I do not like the disorder that exists in the Senate, but I cannot do anything about it. I am not going to vote on an amendment that I have not seen. There will be a second-degree offered and we will vote on that.

So get the amendments in. It is only in fairness to all of us. I yield back any time I have.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senators will clear the well.

Mr. EXON. Mr. President, I ask for 30 seconds for an inquiry to the chairman.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska is recognized for 30 seconds.

Mr. EXON. Mr. President, so that we can proceed in an orderly manner, there is a second Baucus amendment regarding Medicare that I understand has been delivered to that side, is that correct?

Mr. DOMENICI. Yes, it has.

Mr. EXON. Would it be in order to bring that up then?

The PRESIDING OFFICER. Yes.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2991

(Purpose: To make various modifications to the tax provisions and transfer the resulting revenues to the Medicare trust fund)

Mr. BAUCUS. 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. BAUCUS] proposes an amendment numbered 2991.

Mr. BAUCUS. 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 1469, strike lines 8 through 11, and insert the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

"Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500."

On page 1470, line 7, strike "$110,000" and insert "$90,000".

On page 1470, line 9, strike "$75,000" and insert "$55,000".

On page 1470, line 11, strike "$55,000" and insert "$45,000".

On page 1472, strike the table between lines 10 and 11, and insert the following:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400
2004	9,850
2005 and thereafter	10,800."

On page 1530, strike lines 2 through 5, and insert the following:

"(a) GENERAL RULE. If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. _____, offered on October _____, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

Mr. BAUCUS. Mr. President, this amendment strikes the provision of the reconciliation bill that would open the Arctic National Wildlife Refuge up for oil drilling. As an offset, it strikes the provision of the bill that authorizes the sale of the Naval Petroleum Reserve. So it preserves the balanced budget in 2002.

Let me explain why Members should support the amendment.

We've heard a lot of talk, during the budget debate, about the future. About how we should sacrifice today so that our children and grandchildren can benefit tomorrow.

That's well and good. But opening the Arctic National Wildlife Refuge to oil drilling goes in exactly the opposite direction. It puts profits ahead of prudence. As a result, it risks causing serious harm to one of our national treasures, squandering the natural resources that we leave to future generations.

And there's another thing. Opening the refuge to oil drilling is yet another example of public lands policies that favor special interests over the interests of ordinary American families. It opens the Refuge up to drilling. At whose expense? The people who want to hunt, fish, and otherwise enjoy the natural beauty there.

Proponents of oil drilling argue that it will enhance our energy security.

They argue that it will reduce the Nation's budget deficit. And they argue that it won't really pose significant risks to the refuge or its wildlife resources.

I disagree. Let me take the arguments in turn.

First, energy security. According to a 1995 assessment by the U.S. Geological Survey, oil and gas reserves under the refuge may be only about half as large as previously thought. Furthermore, economic analyses show that a lot of the oil won't even be used here in the United States. Instead, if the bills lifting the ban on oil exports passed by the House and Senate are enacted into law, the oil will be shipped overseas. As a result, oil drilling in the Arctic Wildlife Refuge has little, if anything, to do with energy security.

Second, the budget deficit. The Office of Management and Budget has concluded that oil and gas development in

the refuge would produce significantly less revenue than predicted by CBO. OMB looked at updated estimates of the amount of recoverable oil reserves. It looked at projected oil. prices. And OMB concluded that drilling likely would generate only $850 million, 35 percent less revenue than predicted by CBO.

And that assumes that taxpayers get the revenue. But if the State of Alaska successfully asserts a claim that it is entitled to 90 percent of all revenues, Federal revenues will decline to about $170 million.

Third, the environmental impact. The Arctic National Wildlife Refuge is unique. It's been referred to, for good reason, as "America's Serengeti." More than 150,000 caribou migrate through the refuge, bearing their young on the coastal plain. The caribou are an important source of food for the native people who live near the refuge and depend on the land to sustain their way of life. In addition, the refuge supports a spectacular array of other wildlife, including polar bears, grizzly bears, wolves, and snow geese.

OMB has stated that "exploration and development activities would bring physical disturbances to the area, unacceptable risks of oil spills and pollution, and long-term effects that would harm wildlife for decades."

Recent opinion polls demonstrate that the American people—by a margin of more than 2 to 1—oppose opening up the refuge to oil and gas development. I urge members to vote for prudence and for open access to public lands. I urge them to vote for this amendment.

Mr. BURNS. Mr. President, I rise today in support of the reconciliation provision to open a small part of the Arctic National Wildlife Refuge to competitive leasing for oil and gas exploration and development. Like many of the other issues we have addressed on this floor in the past ferw weeks, this issue has generated a lot of emotion. We hear about destroying the pristinity of the refuge, the threat to the wildlife of the area, the irreversible changes that such development will cause, the mortal wounding of a national treasure. This is one of the most controversial provisions of the reconciliation package, and the President has threatened a veto over it. The irony is that there is no reason for this. In the final measure, all of the arguments and objections that have been raised over the leasing in ANWR come to nothing. These objections just don't hold water, and I'll tell you why.

The environmental concerns have been raised before, and found wanting. All of the research done on oil development on the North Slope proves that such development can occur without having an adverse effect on wildlife. As a matter of fact, the caribou herds have not only survived during the nearly 30 years of oil development in the Prudhoe Bay area, they have shown strong growth. Some people predicted that the caribou would be disturbed by the development, particularly the pipeline. They argued that the caribou would not cross it and therefore the range of the herd would be cut in half, they would not be able to get to their calving areas and the herd would suffer. Because of the concern over this possibility, the oil companies buried portions of the pipeline at great expense and effort. This has proven to have been a waste of time and money. The caribou were not scared by the pipeline, they did not even ignore it. The fact is they use it. Biologists have found that caribou enjoy the heat that the pipeline provides during the cold winter months, and they can even be found taking advantage of the shade that it provides during the summer on this treeless plain. Some predicted that caribou would be trapped by the pipeline, and that predators would change their behavior to take advantage of the pipeline. But this has not happened either. There has been very little effect on the wolves or bears in the area. Some said that waterfowl and other birds such as hawks and falcons would avoid the area because of the development. Again, this has not happened. Each year thousands of waterfowl and other birds nest in the Prudhoe area. In fact, there has never been an incident of what could even approach being called serious environmental damage in the North Slope oil fields.

This environmental record has been established using old technologies. The methods for oil development on the North Slope have improved to the point that the direct impact area, or footprint of development, will only be a small part of what it has been at Prudhoe Bay. New slant drilling techniques allow wells to reach farther than they could before. Drilling methods now allow 12 wells to be drilled where only one could be drilled before. And the size of the drill pads have been reduced to one eighth of what was needed at Prudhoe. Not only are the drill pads smaller, but there will be fewer of them and they will be spaced farther apart than at Prudhoe. The actual footprint at ANWR will only be about 3,000 acres. That is not much land to commit for all of the benefits that development will provide. We have learned how to improve other aspects of oil development technology through our experiences at Prudhoe and other Arctic oil fields as well. And this technology is getting better every day. The result is that there is even less potential of environmental damage at ANWR than there was at Prudhoe. And there has not been any environmental damage at Prudhoe.

Objections have been raised because of the presumed effect on the native peoples of the region. But the truth is that there is no conflict with the subsistence lifestyle of native Americans. The North Slope residents have grown up with oil development, and they have not suffered a reduction on their reliance on the caribou herds. The people of Barrow have stated in hearings before the Senate that development has improved their lives. It has provided them with the capability of developing community services that other Americans take for granted. North Slope residents will be the most directly affected by oil development, and they support development of ANWR. And this is not because they have been bought off, bullied or coerced by the oil moguls. They are not ignorant on this issue. The fact is that they have seen what oil development will do to their land. They have watched it for almost three decades. And they know what it will not do. It will not destroy the land that they love, like some people keep who have never even seen the area keep trying to tell them. They know that.

The alternative energy argument is bogus as well. Sure, we need to develop alternative sources of energy. Sure, we need to continue to progress and improve our use of resources. Sure, we want to become more energy efficient. But there are no magic solutions. We are not going to replace oil products in our economy overnight. Petroleum will continue to be a primary source of energy and other products for us in the foreseeable future. Millions of people are dependent on petroleum products, and anyone who thinks that this is going to change soon is badly deceiving themselves. To supply this demand we are now importing more oil than we are producing. Production of our older fields like Prudhoe Bay is declining. Without bringing new domestic supplies on line, this will only get worse. Petroleum is crucial to our way of life, and we are becoming more dependent on the production of foreign nations, some much less stable than ours. If you want to know what this means to us, just think about what happened back in the seventies with the oil cartel, or what might have happened if we had not stopped Saddam Hussein.

This raises the issue of the effect of development of ANWR on the economy. Under our present situation with the trade and budget deficits the economic argument is obvious. We need to open ANWR. There is no other conclusion. Leasing ANWR will benefit the economy in almost every aspect. It will reduce the budget deficit by bringing over $1 billion to the Treasury over the next 5 years. It will reduce the trade deficit by reducing our dependence on foreign oil. That money will remain at home to strengthen our own economy and provide good jobs to our own citizens, jobs that are now going overseas. These are jobs that we need. It will create over 75,000 directly related, high paying jobs in the oil industry. It will create as many as three quarters of a

million new jobs, directly and indirectly, throughout the Nation. As a result of all of this, opening ANWR will stimulate other sectors of the economy as well. Without opening ANWR all of this will be lost. And our trade deficit will just get worse. We will be less able to pay our debts.

The arguments of the outspoken interest groups on this issue anger me, not just because, like with Prudhoe Bay, they are untrue, and these groups know it. What really angers me is the hypocracy of their arguments. These people rely on oil products, just like everyone else. They heat their homes and drive cars just like the rest of us. They use plastic products just like you and me. They take vacations and recreate using planes and trains and boats just like everyone else. And yet they somehow feel justified, in fact sanctimonious, about opposing our development of oil resources. This in spite of the fact that we have the most environmentally sensitive laws in the world. We have the best record of being able to produce oil with the least environmental risk. The reality is that we will continue to use oil products. Keeping ANWR is not going to reduce the demand for oil in this country, we will just import what we need from other countries. For some irrational reason opponents would rather see us do that, would rather see the environmental degradation that happens in other countries, than see us develop our own resources under our tight environmental controls. They would rather see the benefits of development go to other countries, than allow those benefits to remain here at home. That is the hypocracy that I find so distasteful. It has damaged us. It has damaged the citizens of my State of Montana. And I look forward to this Congress doing something about it, doing the right thing for the country, and opening ANWR to leasing.

Mr. LEAHY. Mr. President, America knows that drilling the Arctic National Wildlife Refuge to balance the budget is wrong. Common sense and a basic concern for the environment is all you need to come to this conclusion. Now all we have to do is convince the Senate of the right thing to do. I am disappointed at the difficulty of what should be a simple task.

The refuge is one of a kind—in fact, it is the last of its kind. The Alaska National Wildlife Refuge is the only place we have left that resembles the kind of land that gave birth to our Nation centuries ago.

I wonder how many people realize that outside this Chamber, 500 years ago, the first Americans could hunt bison and elk in the open forests on the banks of the Potomac. I wonder how many people remember that outside this building passenger pigeons used to roost in American chestnut trees, sometimes in flocks of thousands.

Today the bison and elk are gone, the passenger pigeon is extinct, and the American chestnut has been wiped out in this region by an exotic disease. The first Americans would not recognize this place.

Now we turn to a remote corner of our country, the last expanse of true wildness left, and Congress is saying "we need that too—to balance the budget."

To me it takes only a simple sense of decency, respect, and history to know that drilling ANWR is the wrong thing to do, but there are many other reasons that support the American public's opposition to this provision.

First of all, drilling for oil in Alaska is just a tiny drop in the deficit bucket. The leasing revenues will contribute only one-fifth of 1 percent of the budget gap, provided the residents of Alaska do not sue for a 90-percent share of the royalties. Even the $1.3 billion revenue estimate is flawed because it assumes we will make about $30 a barrel when the rest of the world is actually paying only $20 a barrel. Add to that the fact that the production estimates are outdated, and it is clear that we are selling the orchard for an apple.

Second, we should ask ourselves why the residents of the other 49 States should chip in to support Alaska's welfare state. Alaska is a State that collects no income tax, collects no sales tax, pays each man, woman and child almost $1,000 a year just for being there, has $18 billion in the bank, and enjoys the highest Federal spending per capita. And now the State has come to Congress to ask the American people to dedicate another $1.3 billion to support their welfare state.

Third, we have to look at the huge environmental cost of lacing the arctic plain with truck roads, gravel drill pads, and pipelines. Some argue that Prudhoe Bay proves that drilling can be done in an environmentally sound way. But what is so environmentally benign about 500 oil spills a year, air pollution that exceeds the total emissions of six States, pushing millions of gallons through a rapidly deteriorating pipeline, and littering 9,402 acres of arctic tundra with oil rigs and roads? Prudhoe Bay does not have a track record to emulate.

The Senate should also consider the impact of oil wells on wildlife and people that use the refuge. The coastal plain is the cradle of life for birds that migrate from four different continents, 160,000 caribou that migrate between nations, polar bears, musk ox, grizzly bears, and the Gwich'in Indians. The global significance of the resource is recognized in international agreements including the 1987 Canada-United States Agreement on the Conservation of the Porcupine Caribou Herd and the Agreement on the Conservation of Polar Bears. The Arctic National Wildlife Refuge is, after all, supposed to be refuge for wildlife, not a refuge for desperate Senators looking to fund a tax cut.

Fifth, we should recognize the parody of drilling for 90 days worth of oil to reduce our dependence on oil. It is like curing an alcoholic by serving him vodka instead of his usual whiskey. National security is not served by simply defering our dependence on foreign oil for a mere 90 days. If this same Congress had funded the President's budget for energy conservation and efficiency and refused to gut efficiency standards with environmental riders we would have saved more oil than could be drilled in ANWR. Energy conservation is not a quick fix, it sticks with us for good.

Sixth, I object to the backdoor process to that is being used to pass a law that could not survive the light of day. Drilling for oil in the Alaska Wildlife Refuge has been a controversial issue for almost 10 years. This is not a reason to sneak it into the budget resolution through a legislative trick.

Finally, the Alaska National Wildlife Refuge is an American treasure that does not belong to us. It is the heritage of our country. Just as Vermonters recognize a responsibility to pass on a clean Lake Champlain, our best trout streams, and the Green Mountain National Forest to future generations, Vermonters recognize a responsibility to pass on North America's Arctic plain to future generations.

Despite overwhelming public oppostion, this bill trades an American treasure for $1.3 billion, a mere trinket in a trillion dollar package. We can not let this Congress drill ANWR to balance the budget. I urge bipartisan support of this amendment.

Ms. MIKULSKI. Mr. President, I rise today in support of the Baucus amendment to strike the provision in the Energy Committee's reconciliation instructions which opens the Arctic National Wildlife Refuge to oil drilling activity.

The Arctic Wildlife Refuge is one of this Nation's last great wilderness areas. I have often said that we must forge an environmental ethic in our society—that we must preserve America's natural treasures for generations to come. We are the stewards of this land. We are the ones responsible for ensuring that some part of our planet remains for our children.

Protecting our wilderness yields benefits in ways that we do not always see. Scientists will tell you that a vast amount of the medicines that we take for granted today were first discovered in nature. The Arctic National Wildlife Refuge is unique among America's diverse climate. The secrets this unspoiled land holds may well provide us with benefits beyond what any of us can imagine now.

Some would have us believe that this is just an economic issue. I would disagree based on the hundreds of letters

and phone calls I have received from Marylanders who are concerned about opening this land to drilling. I have heard from the native people, both in the United States and Canada, whose culture and livelihoods depend on the caribou that breed within the confines of the refuge. Opening this precious land to oil drilling will wipe these timeless cultures out.

Mr. President, I, for one, am not willing to do that. I am not willing to destroy the lives of thousands of native villagers just so that the oil industry can turn a larger profit next year than it did this year.

I urge my colleagues to support removing this dangerous provision from this bill and vote for the Baucus amendment.

Mr. ROTH. Mr. President, a financial debt is not the only threat that hangs over the heads of future generations. There is a threat to their environment, as well. A threat we must address. We have a moral duty to give them a world that has clean water and clean air, and open vistas where wildlife can thrive. One of the opportunities of every American citizen is to enjoy the wealth of beautiful public lands.

It is my desire that as we work through this budget reconciliation we take great care not to jeopardize one of the most spectacular places in America: The coastal plain of the Arctic National Wildlife Refuge. There is a provision in the budget that provides for oil and gas lease sales in this sanctuary. Located in the northeastern corner of Alaska, this unique piece of our natural heritage is bordered on the north by the Arctic Ocean and Beaufort Sea, and on the south by the snow-capped Brooks Range.

As a lead sponsor of S. 428, the bill that designates the coastal plain of the Arctic National Wildlife Refuge as wilderness area, I am concerned by a provision in this budget reconciliation bill that uses revenues taken from sales of leases to drill the coastal plain.

My concern arises on two levels: first, that the budget is assuming revenue from a pristine wilderness area; and second, that the revenue raised from drilling in this wilderness area will not amount to be such a significant amount of money that it could easily be found elsewhere.

Mr. President, as I have said before, the best thing we have learned from nearly 500 years of contact with the American wilderness is restraint, the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

For this reason, I have been active in the effort to designate the refuge coastal plain of Alaska as a wilderness area. And I am not alone. Only 4 years ago, Congress rejected the idea of sacrificing a prime part of our national heritage, the Arctic National Wildlife Refuge, for what most likely will be a minimal supply of oil. The Arctic National Wildlife Refuge is an invaluable region with wildlife diversity that has been compared to Africa's Serengeti.

As I have said in earlier statements, the Alaskan wilderness area is not only a critical part of our earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness, and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills and undulating tundra. It is untamed—rich with Caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra sands, black brant, and more. In all, about 165 species use the coastal plain. It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

Addressing my second concern—that the revenue raised from drilling in this wilderness area will not result in such a significant amount of money that it could not be found elsewhere—let me say that the estimated revenue is only two tenths of 1 percent of the total savings.

And that is why I am here today, to support the Baucus amendment that will prohibit the leasing of the coastal plain of ANWR to pay for deficit reduction.

This amendment is consistent with the current law—with the dictates of Congress—law that prohibits oil and gas drilling in the coastal plain of ANWR. It is also consistent with agreements that we have made with Canada to preserve and protect this wilderness area, especially the habitat and culture of the native people who live in the area.

This amendment prevents oil and gas leasing in the coastal plain of ANWR without hearings in Congress. It does not preclude future development of this area, but only prevents Congress from using these savings from oil and gas leasing in the current budget process.

The coastal plain—where the oil and gas leasing would occur—is the biological heart and the center of wildlife activity in the refuge. It is a critical part of our Nation's preeminent wilderness and would be destroyed by oil development.

There are those who may think the northern coast of Alaska is too remote for use to worry about. I urge them to read the CONGRESSIONAL RECORDS from the 1870's. The men who initially urged the Congress to protect a place called Yellowstone were subject to ridicule. Why, critics asked, should we forgo the opportunity to dig up minerals from the area? It is a remote place, and few Americans will ever venture there.

Today, as we wrestle with America's future, let us be as far-sighted as that Congress eventually proved to be. Let us not cash in a unique piece of America for a brief, hoped for a rush of oil. Let us protect the coastal plain of the Arctic National Wildlife Refuge. Forever.

Mr. President, I believe that we should not allow revenues to be used in this budget that are supposed to come from doing something that Congress has not allowed.

This is how is should be done. The Baucus amendment accomplishes this purpose. And I encourage my colleagues to support this important effort.

Mr. DASCHLE. Mr. President, I wish to express my support for this amendment, which will help ensure continued protection for the Arctic National Wildlife Refuge.

The issue of whether or not to allow oil drilling along the Arctic coastal plain has been lobbied heavily for years. I have listened carefully to the various arguments made by my colleagues, by representatives of the oil industry, by a delegation of Gwich'in people who inhabit the area in question, by members of the Arctic Slope Regional Corporation who are veterans of North Slope oil production, by environmentalists, and by the public at large. I appreciate the strong feelings this debate evokes.

The fate of ANWR is far reaching. It involves national and State economics, environmental and social values, and the relationship between the Federal and State government.

Anyone who has visited Alaska knows that the stakes for Alaskans are high. The State and its people depend heavily on oil revenues, and its leaders are sensitive to, and have experience with, the potential environmental tradeoffs of oil development.

This issue has come before Congress in the past. I have consistently opposed opening ANWR during those debates. I remain strongly opposed to disrupting this unique and fragile habitat for the purposes of oil drilling today.

Most opponents of opening up the Arctic National Wildlife Refuge cite the potential environmental tradeoffs of drilling in this fragile ecosystem. I appreciate and share that concern.

As I have said in the past, I take seriously the national obligation embodied in the Alaska lands bill to ensure that these remote 19 million acres continue to achieve their purpose of providing a refuge for wildlife. There is no other place in America or in the world where caribou, polar bears, and wild geese flourish as they do in the Arctic National Wildlife Refuge. And, as we

know from both history and recent scientific study, once one component of an ecosystem is adversely affected, then the entire system can become effected by a chain reaction.

Declining populations of polar bears, birds, and caribou, and the animals and Native American communities that depend on them, is a valid fear. A recent article in the Anchorage Daily News reports that the Central Arctic caribou herd that inhabits Prudhoe Bay has suffered a 23 percent reduction from 23,400 to 18,000 animals in just the last 3 years. Although it is difficult to determine the exact reason for this marked decline, the part of the herd that ranges near the oil drilling activity has experienced almost all of the losses.

Nonetheless, the debate over the future of ANWR should not be framed as it all too often is as a face off between elitist environmentalists and rapacious developers. It is also a debate about national energy policy and national values.

It is particularly hard to justify opening the Arctic National Wildlife Refuge to oil drilling, with all the industrial activity and associated disruption that would involve, when the probability of finding oil is so low. Moreover, even if oil were to be found, the potential oil reserve in the Arctic National Wildlife Refuge would at most sustain our country's basic petroleum needs for a mere 6 months. Clearly, then, the Arctic National Wildlife Refuge is not the answer to achieving independence from foreign oil supplies.

Meanwhile, this perpetuation of our national love affair with hydrocarbon fuel has other downsides. Our profligate energy consumption cripples our international competitiveness, pollutes our air and beaches, and increases the trade deficit. We must take serious steps to make ourselves more energy-efficient and to conserve energy whenever and wherever possible. And we should better develop our domestic renewable energy supplies like ethanol and renewable methanol.

Mr. President, last week, representatives of the petroleum, natural gas, automotive, ethanol, and engineering industries met in Washington at the World Conference on Transportation Fuel Quality to review the progress made in just the past few years with reformulating gasoline as required in the Clean Air Act Amendments of 1990. Today, approximately one-third of all the gasoline sold in the United States contains noncrude oil-derived additives called oxygenates, primarily ethers and ethanol from grain. EPA has called the reformulated gasoline program the most significant automobile pollution reduction advance since the removal of lead. The pollution reductions achieved this year amount to the equivalent of taking 8 million cars off the road.

What is little recognized, however, is that the reformulated gasoline program is also the most significant crude oil reduction program ever instituted. The Congressional Research Service has concluded that it could reduce U.S. oil requirements by 500,000 barrels or more per day, and that it represents the most significant means of reducing oil imports in the near to mid-term of any other approach.

Even more exciting is the fact that if the proposal to have a "49 State Fuel"—in other words, a nationwide RFG standard—is adopted, U.S. oil requirements could be reduced by over 1.5 million barrels per day, or more than 20 percent of our daily gasoline demand. At an average $20 per barrel, this would mean that nearly $11 billion annually would remain in the United States rather than be exported to foreign oil producers.

This alternative far overshadows the benefits to the Nation of opening ANWR. It also carries with it the additional advantage of more diversified job creation, and the ongoing benefits of stimulating renewable fuel technologies that cannot be depleted as is the case with finite oil fields.

I believe the case for continuing to protect the Arctic National Wildlife Refuge from oil drilling is strong. Drilling would risk the ecological health of the coastal plain for a relatively small and speculative supply. And, from a national energy policy standpoint, it makes more sense to look to energy conservation and the development of renewable fuels than to seek new reserves of fossil fuels in the Arctic coastal plain.

For most Americans, opposition to oil drilling in the Arctic National Wildlife Refuge is more profound than the mere sum of these concrete arguments might suggest. Our country has a revered tradition of protecting its natural heritage. Through our system of State parks, national parks, wilderness areas, and wildlife refuges, Americans have been in the forefront of conservation, articulating and enforcing a land ethic that embodies the best impulses of our Nation. We have always had a clear sense in this country of the natural heritage that makes our lives so special and worthwhile, and we have been willing to take tangible steps to protect that heritage.

Robert Kennedy, in a speech delivered only 3 months before his death, spoke at the University of Kansas on the measure of America's worth. He noted that too often we pay attention only to the bottom line and judge policies only on their contribution to the gross national product, and that in using that simple measure, we fail to account for that which makes life in America so special. He stated that—and I quote:

> [The] GNP counts air pollution and cigarette advertising, and ambulances to clear our highways of carnage. It counts special locks for our doors and the jails for those who break them. It counts the destruction of our redwoods and the loss of our natural wonder in chaotic sprawl. . . . It measures neither our wit nor our courage; neither our wisdom nor our learning; neither our compassion, nor our devotion to country; it measures everything, in short, except that which makes life worthwhile.

For most Americans, who will never have a chance to see the Arctic coastal plain and witness the thundering herds of caribou in their annual migration, or watch a wolf run down a ptarmigan, the simple knowledge that this special and unique place will remain unspoiled by the heavy footprint of industry will make life richer and more worthwhile. It will also encourage us to invest in domestic alternatives, such as more efficient end-use technologies and new strategies for energy conservation—alternatives that have positive environmental effects and which make us more economically competitive in the international marketplace. The route toward energy independence lies down the road of energy conservation and efficiency, and I believe, greater use of domestic renewable fuels. It does not lie down the road of more consumption of fossil fuels.

This vote is as much a test of our common sense as it is of our common character. We are setting national priorities in this budget, priorities that should reflect our deepest and most closely held values. If we allow this wild and unspoiled refuge to become yet another monument to avarice and addiction to fossil fuels, then we will have lost more than a single wildlife refuge in a remote land; we will have sacrificed part of our character, that intangible part of each of us that values the gentle and respectful treatment of our natural heritage and from which we derive a profound sense of national worth.

If we set this precedent, if we vote to open this remote refuge to oil drilling, then we will have defeated the better part of ourselves. Collectively, we will have failed this important test of national character.

I urge my colleagues to support this amendment and vote to protect the Arctic National Wildlife Refuge.

Mr. WELLSTONE. Mr. President, since I first came to the Senate I have been active in the fight to protect the Arctic National Wildlife Refuge from oil and gas drilling. I intend to continue the fight to save the Arctic Refuge as we debate the reconciliation bill in the Senate.

The Senate reconciliation bill contains a number of provisions that are poor policy, that are unfair to those least able to defend themselves, and that consider only short-term gain and not long-term loss; the proposed plan to open the Arctic Refuge to gas and oil drilling is one such provision. Since I have been in the Senate I have spoken time and time again about the fact that this is poor energy policy, poor

environmental policy, and cynical politicking.

The Arctic Refuge is one of the last pristine wilderness areas left in America, it contains the Nation's most significant polar bear denning habitat on land, supports 300,000 snow geese, migratory birds from six continents—some of those birds even make it to my State of Minnesota, and a concentrated porcupine caribou calving ground.

While proponents of drilling in the Arctic Refuge will tell you that the caribou are not harmed by drilling, an October 21, 1995, article in the Anchorage Daily News reports that new information shows a sharp decline in the Central Arctic caribou herd. While nobody knows exactly what caused the decline, most of it has occurred in the part of the herd that lives near the oil field. Despite our uncertainty about the effects oil drilling would have on the animals, there are those who continue to push for oil drilling without an updated environmental impact statement [EIS] as required by current law. An EIS has not been done in the area since 1987. We just do not know what drilling would do to the Arctic Refuge, and barreling ahead with drilling is just poor environmental policy.

The Gwich'in people have relied on those porcupine caribou for thousands of years to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in the Arctic Refuge would do to their way of life. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the lobbyists, and they do not have the lawyers here every day. In today's Washington environment, that seems to mean that their concerns are less important than the concerns of big industry.

Even if whatever amount of revenue gained were somehow worth destroying this unique land and the lives of the Gwich'in, there are a number of questions regarding whether the Arctic Refuge has oil, how much it has, and what the cost would be to retrieve it. Estimates are broad and disagreements are rampant. Even I, a nonscientist, know one thing for certain: There is no way to tell how much revenue can be gained from drilling in the Arctic Refuge. New information, however, suggests previous figures overestimated possible revenue.

Alice Rivlin, Director of the Office of Management and Budget, stated in an October 25 letter that drilling in the Arctic Refuge would produce "significantly less revenue than has been scored by the Congressional Budget Office." New studies suggest there is less oil than previously thought, the price of oil as projected by the Department of Energy has dropped and serious concerns remain about whether Alaska will stage a court battle to change their share of the revenue from 50 percent to 90 percent as the State claims its statehood act allows. Regardless of who is right, barreling ahead with incomplete information and short-term thinking is just plain poor energy policy.

The administration has indicated that if the bill includes drilling in the Arctic Refuge, the President will veto it. I would wholeheartedly support him if he did.

Throughout the course of my years of work to save the Arctic Refuge, I have heard from many Minnesotans, including many children, about their desire to preserve it. Our natural resources are among the most important things we can leave to these future generations. Our children and our grandchildren deserve more than what this bad energy policy, bad environmental policy, and shortsighted politicking would leave them. I will continue to speak for all Minnesotans, for their sense of fairness and equity and for their love and concern for the environment. I will continue to fight to save the Arctic Refuge from gas and oil drilling. I urge my colleagues to join me.

Mrs. MURRAY. Mr. President, I rise in strong support of this amendment to protect our children's heritage. I rise because this budget reconciliation debate should be about revenues. It should be about how much we have and how much we spend. The Arctic Refuge coastal plain is not about money; it is about values. It is a question of whether we are willing to trade off wilderness and wildlife that are our national heritage and legacy for our children, in order to make a short-term payment on bills we have accumulated.

Future generations will look back on what we might do today with sadness. They will not see this as a matter of shared sacrifice, but as a mark of the selfishness of a generation which, to pay off a minuscule fraction of its debts, sacrificed the inheritance of future generations. Let me explain the several other reasons why I support this amendment.

First, leasing the Refuge does not result in a significant return of money to the Federal Treasury. If the dubious assumptions of the Budget Committee prove correct, the leasing revenues would be a mere two-tenths of 1 percent of our budget gap. If we lease this unique Arctic wilderness that has been called America's Serengeti, it would be permanently destroyed. For most Americans, trading our natural wealth in the Arctic Refuge wilderness for the possibility of oil is not worth it.

Even worse, there is little assurance that the leasing revenues would be at the level assumed by the Budget Committee. Other highly prospective leases nearby in Alaska have been made at considerably less per acre. Lease sales in the Beaufort Sea, immediately offshore the Arctic Refuge, received only $33 to $153 per acre; the most recent onshore State lease sale, located west of the refuge, brought in just $48.41 per acre. This budget provision assumes an astounding $1,733 per acre if the entire coastal plain is leased.

Furthermore, the State of Alaska, not the Federal Government, is likely to reap a significant amount of the financial benefit of the leases. The Budget Committee assumes that only 50 percent of the leasing proceeds will go to the State of Alaska. However, Alaska currently receives 90 percent of the leasing revenues from Federal lands. It is unlikely that the citizens of Alaska—who receive annual dividend checks of nearly $1,000—would willingly forfeit proceeds they believe they are due; a lawsuit to recover the difference would be much more likely.

Second, the public could lose access to this remarkable area. A handful of major oil companies stand not only to make enormous profits, but to have the right to exclude the rest of us from their leased refuge lands. Today, public access in the Prudhoe Bay oil fields is strictly prohibited without an oil company escort. So hikers, rafters, fishers, hunters, and solitude seekers will likely be excluded from their Arctic Refuge. One more wild place will be closed.

Third, the Budget Committee suggests that the square acreage impacted by oil and gas leasing would be relatively small. However, this area is the biological heart of the refuge. It is the most coveted by oil companies and the most critical for wildlife. The coastal plain is an integral part of the only conservation area in North America that protects a full spectrum of Arctic and sub-Arctic ecosystems. While only 13,000 acres would be affected, the wilderness in the entire coastal plain would be impacted by oil development. The massive industrial complex would not be in a compact area, but would sprawl over hundreds of square miles in a network of roads, pipelines, airports, and processing plants.

Fourth, budget reconciliation is the wrong place to decide such an important issue. We should have a full and fair airing of all views about the leasing of our Arctic Refuge. Money is not the only value we should consider. Before we drill holes and pave portions of the refuge, we should consider all of its value, not just its infinitesimal contribution to the budget deficit. I believe its sponsors know that they could not win in the light of full debate. A massive spending bill provides them the cover of darkness that they know they must have to win.

In closing, I quote the great writer and naturalist Margaret Murie, "Wilderness itself is the basis of all of our civilization. I wonder if we have enough reverence for life to concede to wilderness the right to live on?"

I will cast my vote to protect the Arctic National Wildlife Refuge—for wilderness and for my children.

Mr. BAUCUS. Mr. President, my amendment would reallocate the tax credits in the reconciliation bill toward the middle-income taxpayers and apply the savings to reduce the Medicare spending cuts. It specifically strikes capital gains for corporations and gives some relief for individuals who make capital gains over $100,000 a year. It is geared more toward the million-dollar income taxpayers.

Mr. DOMENICI. Mr. President, this amendment adds new language. It is not germane and is subject to a point of order.

I make a point of order that this amendment violates the Budget Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 526 Leg.]

YEAS—43

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

NAYS—56

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

The PRESIDING OFFICER. On this vote, the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well-taken and the amendment is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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.

AMENDMENT NO. 2995

(Purpose: To provide that the repeal of the exclusion for punitive damages shall not apply to punitive damages in a wrongful death action in a State where on September 13, 1995, only punitive damages may be awarded in such an action)

Mr. DOMENICI. 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 Mexico [Mr. DOMENICI], for Mr. HEFLIN, for himself and Mr. SHELBY, proposes an amendment numbered 2995.

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

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

The amendment is as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

Mr. HEFLIN. Mr. President, in my State of Alabama, the courts have consistently held that the damages recoverable under the wrongful death statute are punitive as distinguished from actual or compensatory damages. For the past 140 years, the Alabama Supreme Court has interpreted this statute as imposing punitive damages for any conduct which causes death, regardless of the degree of negligence or capability. The premise for this interpretation is the belief that all people are worth the same, and this interpretation stimulates diligence in protection of natural right to live, without respect to personal condition or disability of the person so protected. *Breed* v. *Atlanta*, B & CRR, 241 Ala. 640, 4 So.2d 315 (1941). Therefore, the entire focus of a wrongful death civil action in Alabama is on the cause of the death.

The amendment I am offering provides that punitive damage awards made in wrongful death cases should not be included in gross income Alabama where only punitive damages can be recovered for a wrongful death. Taking into account the revenue aspects of the Finance Committee provision, I have narrowly drafted this amendment.

This amendment would only affect my State of Alabama. Of all the 50 States, Alabama has a different and unique recovery in the event a decision is made by a court or jury in regard to the death of an individual, whether it be brought by negligence or any form of action. A person cannot prove, in a wrongful death case in Alabama, compensatory damages. An Alabama plaintiff cannot show his wages, his doctor bills, or anything similar of an economic or noneconomic nature. Therefore the award granted in such a case would be fully taxable by the Internal Revenue Service. For this reason I see the tax effect of the current provision as unfair to those Alabama victims and their families and the amendment as an equitable solution.

I strongly support this amendment. I think it is the correct language to narrowly address what would be an intolerable tax burden on the grieving families of Alabama victims who are killed by negligence or by gross negligence or recklessness or wantonness or any type of proof that is necessary to prove a cause of action. I think the Senate ought to adopt this fair and equitable amendment.

Mr. DOMENICI. I will take the 30 seconds allowed to explain this amendment.

This is agreed to on both sides. It is for the two Senators from Alabama and it relates only to an 1852 statute with reference to damages for wrongful deaths—civil damages for wrongful death. It will correct a very old law.

Mr. EXON. Mr. President, we have checked. We have found no objections on our side. If there are any, I would like to hear them at this time.

Hearing none, I yield back the balance of our time. We support the amendment.

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

The amendment (No. 2995) was agreed to.

Mr. EXON. 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. Senator, do you have an amendment on your side?

Mr. EXON. I yield to Senator KENNEDY for an amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

AMENDMENT NO. 2996

(Purpose: To prohibit balance billing by providers participating in Medicare choice plans)

Mr. KENNEDY. Mr. President, this amendment will maintain provisions of current law that protect Medicare beneficiaries who join a Medicare HMO or other private insurance plans under the new Medicare choice program from excess charges by physicians or other providers. All we are saying is what is the current law today will be the current law tomorrow in terms of the HMO's or other health delivery systems. That protection is not included in the legislation that is before us. This will provide that kind of protection for the seniors of this country. It is absolutely necessary.

The PRESIDING OFFICER. Will the Senator from Massachusetts or the Senator from Nebraska send that amendment to the desk?

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2996.

The PRESIDING OFFICER. Is there objection to the dispensing of the reading of the amendment?

Without objection, it is so ordered.

The amendment is as follows:

On page 469, between lines 8 and 9, insert the following:

"(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law, an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance, and deductibles required by such plan in accordance with subsection (c).

Mr. DOMENICI. Mr. President, I gather Senator KENNEDY has spoken to the amendment. We are not going to give him double time.

Mr. KENNEDY. That is fine.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand the amendment before us does nothing to change the prohibition on balance billing in the traditional Medicare Program. It does not extend price controls to the private Medicare choice plans. In short, the Finance Committee thinks they did a good job on this and there is no need for this amendment.

The PRESIDING OFFICER. All time has been consumed. The question is on agreeing to the amendment.

Mr. DOMENICI. I move to table the 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.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, at the suggestion of the majority leader, I ask that after this vote we have a quorum call to last until 1 o'clock, and that be for purposes of Senators getting some relief from the floor and perhaps getting more of the amendments prepared so we can know what we are doing.

The PRESIDING OFFICER. That will be the order.

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts, amendment No. 2996.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—52

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

NAYS—47

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

So the motion to lay on the table the amendment (No. 2996) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

RECESS

Mr. DOLE. Mr. President, so that we can give staff on each side time to sort of bring the amendments together in some order on each side so we will know precisely where we are—it makes it very difficult if we are not quite certain, and if we have not seen the amendment—I think we can save time by taking a brief recess now to give them that opportunity.

So I ask unanimous consent that we stand in recess until the hour of 1:20 p.m. and that when we come back we resume voting immediately after reconvening with 7½-minute votes, the same as we have now.

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

Thereupon, the Senate, at 12:33 p.m., recessed until the hour of 1:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAMS].

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will just use a minute of my leader's time.

I am now advised that there are at least 40 amendments on the other side that will be offered, after we were at least hopeful yesterday and we agreed to have up-and-down amendments on tier 1. We will probably end up with maybe 25 tier 3 amendments. We have already disposed of a number. So it seems we are going to exceed almost up to 50 amendments in that category.

If you just took the votes themselves, you allowed 10 minutes, that is 400 minutes. That is 7 hours. I am not going to stick around here very long tonight, but I am very happy to come back early tomorrow morning. We will go along and see how many of these—we have 13 over here, so that is another couple hours. So if that is what we want to do, we will have plenty of time this weekend to do it. We are going to do it this weekend, but we are not going to stay up half the night to accommodate somebody who has to be somewhere tomorrow.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Senator KENNEDY has an amendment that we would like to bring up at this time, so I yield him the 30 seconds to explain his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the reconciliation bill raises the Medicare age of eligibility to 67.

The PRESIDING OFFICER. Will the Senator please send the amendment to the desk.

POINT OF ORDER

Mr. KENNEDY. I raise a point of order that section 7171, raising the age of Medicare eligibility, violates section 313(b)(1)(a) of the Congressional Budget Act.

It has been submitted to the Budget Committee, so I make that point of order at this time.

The PRESIDING OFFICER. The point of order is sustained.

The Senator from Massachusetts.

Mr. KENNEDY. If I could have order, Mr. President.

The PRESIDING OFFICER. Will the Senate please come to order so we can hear the amendment offered by the Senator from Massachusetts.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the reconciliation bill raises the Medicare age of eligibility to 67 beginning in the year 2003.

While the reconciliation provision is described as conforming to the Social Security change enacted in 1983, it has significant differences. Individuals affected by the Social Security change had a minimum of 20 years to adjust their retirement plans, while individuals affected by this change have only 7 years. Social Security change continued to allow individuals to receive benefits at 62.

The PRESIDING OFFICER. The Senator from Massachusetts must send his amendment to the desk.

Mr. KENNEDY. I ask that the Budget Committee, where I submitted it—if I could have their attention, please.

As I understand, the point of order was sustained, so I wonder why I need to send something——

The PRESIDING OFFICER. The Senator has a time limit of 30 seconds on the amendment. And if the amendment is not at the desk, the Senator does not have any time.

Mr. KENNEDY. I made the point of order. It was sustained.

I ask, in place of sending the amendment, that I be entitled to the same amount of time to speak on the point of order.

The PRESIDING OFFICER. The Senator has used his 30 seconds.

Mr. DOMENICI. Mr. President, the Senator has prevailed.

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

Mr. KENNEDY. I just say, if we are going to be taken off our feet when the parliamentary situation is not clear, we will be staying around for a long time.

I am asking for fairness, for the 30 seconds we were entitled to, that I was told I am entitled to by the Budget Committee.

The PRESIDING OFFICER. The Senator has used his 30 seconds.

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senator have an additional 30 seconds.

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

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

Mr. KENNEDY. Mr. President, the Social Security change continued to allow individuals to receive benefits at age 62; the age of early retirement, and age 65, the normal retirement age, although at reduced levels.

Under this proposal, no Medicare benefits at all will be provided until the individual is 67. The provision breaks faith with American workers who paid into the Medicare system in the expectation they will be provided health security at the age of 65 and will leave millions of senior citizens without health insurance coverage.

Mr. DOMENICI. Mr. President, I hope——

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I hope for purposes of management that Senators on our side would leave it up to one of us, either the leader or I, in terms of asking that people be recognized or granted time. I understand the Senator, but I hope in the future the Senator will leave that up to us. He has prevailed. We had no intention of stopping him. So I think this matter is over. We yield back any time we might have had on the point of order. It has already been granted.

The next amendment, I understand, is on our side by Senator COCHRAN.

AMENDMENT NO. 3004

(Purpose: To require the Secretary of Agriculture to establish a special marketing order to equalize returns on all milk used to produce Class IV final products, to consent to the Northeast Interstate Dairy Compact, and to require the Secretary to carry out an agricultural competitiveness initiative)

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. JEFFORDS, proposes an amendment numbered 3004.

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

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

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

Mr. COCHRAN. Mr. President, this amendment helps farmers and markets adjust to the changes in Federal dairy policy in this bill. It does so by creating an export class for dairy products and establishing a farmer-financed mechanism to boost exports. It saves money and provides for research to make our products more competitive.

It will also grant the consent of Congress to the Northeast Interstate Dairy Compact, which is supported by all the Governors and legislatures in New England.

I urge Senators to support the amendment.

The PRESIDING OFFICER. The Senator's 30 seconds has expired.

Mr. JEFFORDS. Mr. President, I join my colleagues Senator COCHRAN, Senator LEAHY, Senator GORTON, Senator COHEN, and Senator SNOWE in supporting the creation of an export class for dairy products, and granting the consent of Congress to the Northeast Interstate Dairy Compact. This amendment is vital to the future of the New England dairy industry and the national dairy industry as a whole.

Mr. President, the Senate reconciliation bill cuts the cost of the dairy program by 49 percent over the next 7 years. This comes on top of a reduction of 69 percent in the last decade. While the dairy industry is willing to accept some cuts, and I realize the need to cut, the industry has already pulled its load. As it stands, this bill does not address the critical need to increase sales of butter and nonfat dry milk in the world market.

As the support prices for butter and nonfat dry milk are eliminated, their prices will fall and cause a glut of those products. This surplus will either be cleared on the world market at a very reduced price, or be converted into cheese. In either case, this will case a substantial drag on the return to dairy farmers and manufacturers of these products. This amendment will expand U.S. dairy markets by providing a way for all producers to share the cost of moving those products to the export market. It is GATT-legal, plus will reduce U.S. reliance on export subsidies.

The Congressional Budget Office estimates that the conversion from powder to cheese will increase Commodity Credit Corporation purchases by $230 million. This amendment will help farmers and taxpayers—by ensuring dairy products will be exported instead of being purchased by the Government.

This amendment will also grant consent to the Northeast Interstate Dairy Compact, an agreement among the six New England States to create a commission that will have the authority to oversee the pricing for fluid milk produced in the New England region. The compact will not affect milk prices outside the compact region. In fact, it will act as a useful pilot project for other regions, and is strongly supported by many groups and individuals across the country.

Mr. President, the New England States have joined together to do what many States do already on their own. If America had grown from west to east I would not be standing here because New England would likely be one large State and would not have to ask for consent of Congress.

All six States' Governors—Republican, Democrat, and independent and their legislatures strongly support this amendment. On vote after vote this year we have acted to give more responsibility back to the States. Here is

an opportunity for the Senate to do just that—in precisely the manner the Founders laid out in the Constitution.

Mr. President, the National Milk Producers Federation strongly supports this amendment as well as Mid-America, AMPI, Darigold, Milk Marketing Inc., and many other farmer cooperatives and dairy farmers from throughout the country. Supporting it is an opportunity to vote for States' rights, and to vote for dairy farmers and to vote for our taxpayers. I urge my colleagues to support our amendment.

Mr. GORTON. Mr. President, I join my colleagues, Senator JEFFORDS, Senator COHEN, Senator SNOWE, and Senator LEAHY, as a cosponsor of this amendment.

Mr. President, the Senate Agriculture Committee has eliminated dairy price support purchases for butter and nonfat dry milk, and retains such purchases for cheese. The dairy farmers in my State support this provision, but only if a farmer funded class IV export program is established. The Agriculture Committee failed to address export sales of butter and nonfat dry milk to the world market. Our amendment addresses this issue and according to CBO will save an additional $233 million in the next 7 years. These savings are in addition to $1 billion the Government will save during the same 7 years by the elimination of dairy support for butter and nonfat dry milk.

This farmer funded class IV export program has the support of many, including; Darigold—80 percent of all Washington State producers, National Milk Producers Federation, Mid-America Dairymen, Milk Marketing Inc., AMPI, American Farm Bureau, Kansas Dairymen Association, Utah Dairymen Association, NE Council of Farmer Cooperatives, Michigan Milk Producers Association, Florida Dairy Farmers Association, Dairylee Cooperatives, United Dairymen Association, Western Dairymen Cooperatives, and a legion of other farmer cooperatives and dairy farmers across the country.

In closing, Mr. President, I urge my colleagues to vote in favor of this amendment.

Ms. SNOWE. Mr. President, I am pleased to be a cosponsor of the amendment offered by the gentleman from Vermont, and I rise in strong support of the amendment.

Family dairy farms are facing hard times across the country, and this amendment is designed to assist these farmers while protecting the interests of the taxpayers and consumers.

The Jeffords amendment does two things. First, it creates a class IV pool for nonfat dry milk and butter. This pool will help to offset the financial impact on farmers of the reconciliation bill's repeal of the price support program for these two products. The new pool would be GATT-legal, allowing a greater volume of U.S. butter and nonfat dry milk to be exported than would be the case if we do not create the new pool. In short, the class IV pool will help farmers maintain their incomes without increasing Federal expenditures.

Mr. President, the second provision of the amendment provides the consent of the Congress to the Northeast Interstate Dairy Compact. Like the class IV proposal, the compact is designed to help family dairy farmers survive in a very difficult market environment. But unlike the class IV proposal, the compact does not involve the Federal Government. It represents a regional, State-based solution to a regional problem, and the Federal Government need only give its assent and then step out of the way.

Today, New England is practically bleeding dairy farms. In Maine, for instance, we have lost more than 200 farms since 1988, and this number would have been far higher if Maine had not instituted a dairy vendor's fee to help stabilize farm income. Unfortunately, that vendor's fee has been invalidated by a Federal court, and farmers are exceedingly vulnerable once again.

The decline in New England's dairy farms can be attributed to low and volatile dairy prices under the Federal marketing order program that do not reflect the costs of production in the region. Because New England farmers sell much of their milk in the fluid milk market, they face substantially higher costs to get their milk to the plant, and they do not have access to subsidized electricity like farmers in some other parts of the country. Consequently, New England's dairy farmers receive some of the lowest mailbox prices of any dairy farmers in the country.

In response to this farm crisis, the six New England States negotiated an interstate compact in 1993 that allows them to add, if they choose, an additional increment to the Federal marketing order price in the New England region. These increments would have to be approved by a commission created under the compact which consists of representatives from each of the New England States, and which includes both producer and consumer interests.

Mr. President, this compact is a regional solution to a regional problem in the most literal sense. With very few exceptions, it affects only the consumers, farmers, and dairy processors of New England. The compact applies only to fluid, or class I, milk, and 97 percent of the fluid milk consumed in New England is processed by New England-based processors.

Approximately 75 percent of the milk processed by these processors comes from New England farmers. The remainder comes from New York, whose farmers would receive the same prices for their milk under the compact as farmers in New England.

Although the compact only affects the participating States, the cosponsors of the amendment have included explicit assurances to remove any doubt. These assurances further clarify that the compact only applies to class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as New England farmers, and that the compact commission will take active measures to prevent increases in production.

Mr. President, the Jeffords amendment is profarmer, protaxpayer, and pro-States' rights. It will help to ensure that good farmers have a reasonable chance to stay in business, but at less cost to the Federal Government. I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to the amendment offered by Senator COCHRAN to grant the consent of Congress to the Northeast Interstate Dairy Compact and to create a class IV pricing system for milk used to make butter or powder.

Both of these provisions would take dairy policy in the opposite direction in which congressional reformers are attempting to take all agricultural policy—this amendment provides more market intervention, more regulation, and more inequity.

It is unfortunate that the major changes that this amendment makes and the enormous precedent that it sets will not be fully debated by this Chamber. I am certain that few Members of this Chamber will have an opportunity to actually learn and understand just what it is they are voting on. I am also certain that this amendment will be approved.

This amendment balkanizes the U.S. dairy industry by insulating the Northeast dairy industry from the market conditions that all other farmers in this country must face.

This amendment will provide congressional consent to an interstate compact, the like of which has never been approved by the Congress. It is, Mr. President, unprecedented.

This compact will allow a Commission in the Northeast to set fluid milk prices artificially high for the six States in the compact. It allows dairy farmers in six States in the Northeast to enjoy higher prices for their milk, erects barriers to keep out lower cost milk from outside the compact walls, and will result in lower prices for producers in the rest of the United States.

The compact would allow for an increase in the fluid milk differential up to $17.40 per hundred pounds of milk, or in terms of gallons—$1.50 per gallon. This is well over $3 greater than the

price producers in the New England order enjoy currently for fluid milk.

However, the compact we are being asked to approve also allows that price to be increased with inflation, as measured by the CPI, since 1990. By the year 2,000 the cap could be well over to $20 if inflation increases by 3 percent per year.

With those kinds of price increases, we can expect producers in Vermont and elsewhere to increase their milk production in response to those higher prices. And, Mr. President, as far too many dairy farmers know, production increases in one region of the country drive down milk prices for producers throughout the Nation.

One might ask why producers in the Northeast should be allowed to have their milk prices adjusted for inflation each year, when that privilege is given to no other commodity in any other region. One might ask why we should allow one region of the country to increase consumer costs when virtually every other effort in this Congress has attempted to eliminate the burden on consumers from overly regulatory agricultural policies.

We must ask, why should the Congress grant its approval to the Northeast Interstate Dairy Compact?

The answer is that Congress should not provide its consent for an interstate price fixing compact.

The supporters of this amendment have tried to present this as a very simple idea—that of a simple interstate compact designed to help the struggling producers of that region in isolation from national markets and having no effects on non-compact producers.

But, Mr. President, producers in the upper Midwest have learned through painful lessons that regional changes in milk prices have national effects and national implications.

The Northeast Dairy Compact is not a simple proposal. It is not an innocuous interstate compact isolated to the participating States and it will have national implications.

Mr. President, it is time to remove the artificial fluid milk price differentials that discriminate against certain regions to the benefit of others, distort markets, and cost consumers millions of dollars in food costs annually—It is not time to enhance them.

I would urge my colleagues to think seriously about whether or not this body wishes to endorse price-fixing compacts of any nature.

The precedent that congressional approval of the Northeast Interstate Dairy Compact would set is very serious indeed—we will be allowing a small group of States to fix prices for a product produced and marketed nationally.

The second half of this amendment establishes a class IV pricing system which benefits a few producers on the other coast of the United States—the west coast powder-producing States, to the detriment of producers elsewhere. This class IV pricing system is not necessary for the U.S. dairy industry to expand exports. I have 30,000 dairy farmers in Wisconsin that want to expand exports and are planning to do so, but Wisconsin dairy producers oppose class IV pricing.

Why? Because it forces them to pay a tax to support producers on the west coast. In fact, producers throughout the country will likely pay a minimum of 15 cents per hundredweight to help producers on the west coast continue to overproduce milk powder which will no longer be supported by the Federal Government which is no longer demanded by the domestic market. I would urge my colleagues to look with a skeptical eye on projections that this amendment will greatly enhance producer revenues to compensate for powder tax that all producers will pay. If such projections were realistic, the thousands of milk producers in the upper Midwest—the heart of this Nation's dairy country—would be embracing this proposal, not opposing it.

Mr. President, this amendment provides help to producers in eight States—the six Northeastern States that will benefit from the Compact, and two west coast States that will benefit from the class IV system. All other producers in between are the big losers.

I urge my colleagues to oppose this amendment. It creates more regulation, more market distortions, and discriminates against all but a few producers in the country. Mr. President, this is bad policy.

Mr. KOHL. Mr. President, it is difficult for me to oppose my friends from the Northeast in their efforts to help the dairy farmers of that region. But it is on behalf of the dairy farmers of my State that I feel that I must. Not only because I believe his compact will have a negative effect on the dairy farmers of regions outside the Northeast, but also because I believe it to be an inappropriate method of addressing the problems of the dairy industry, which are national in nature.

This measure is a regional compact. It is an effort by six Northeastern States to require artificially increased milk prices for the farmers in those States exclusively. It is at its heart anticompetitive, and I believe that it is market distorting.

The sponsors of this measure claim that the Northeast is an island unto itself, and that this compact will not affect any other region. I believe that that statement ignores the complexities of dairy markets, which are national in nature.

To predict the exact effects of the compact on other regions is nearly impossible. But to assume that there will be none is to turn a blind eye to the history of agricultural policy.

My region of the country, the upper Midwest, has learned this lesson all too well. We, in this region, have seen our dairy industry become the victim of unforeseen market distortions caused by the milk marketing order system. This system, which was instituted in the 1930's, requires that higher minimum prices be paid to producers the farther they are from Wisconsin. Since the upper Midwest was the traditional hub of dairy production, the purpose of this regional discrimination was to help dairy industries outside the upper Midwest develop, so that every region could have a locally produced supply of fluid milk.

But that goal has been largely accomplished, and the policy that was intended to give other regions an artificial "leg up" over the upper Midwest, is now contributing to the decline of dairy farming in the upper Midwest.

But make no mistake about it. This debate is not only about the upper Midwest. And it is not only about dairy policy. This debate is about the future direction of all agricultural policies.

I and many of my colleagues from farm States have been willing to promote farm programs that we believe will provide a safety net to farm prices, to help provide some security for the family farmers of this Nation.

But the Northeast Dairy Compact goes beyond anything ever done in a farm bill. And it goes far beyond any other regional compact presented to the Congress for approval.

It is the product of one region's frustration with national policies, and an effort by that region to remove themselves from that national system and establish a regional dairy policy.

So why is this compact before the Senate? The answer is that the Northeast needs Congress' approval in order to interfere with interstate commerce.

The commerce clause of the U.S. Constitution makes it clear that States cannot infringe on interstate commerce. Court case after court case has turned down efforts by individual States to do so. Most recently, in the 1994 West Lynn Creamery, Inc. versus Healy decision, the Supreme Court turned down a Massachusetts milk pricing policy that would have artificially increased the price of milk sold in Massachusetts in order to bolster the dairy farmers of that State alone. The Supreme Court turned down that effort as being a clear violation of the commerce clause of the Constitution. At that time, even the State of Vermont argued in opposition to the Massachusetts effort, claiming that it was "economic protectionism that burdens interstate commerce by interfering with competition."

But now all six Northeastern States have banded together to do something very similar to what Massachusetts tried to do on its own, and that its to artificially increase milk prices in that

region for the benefit of the farmers in that region, and to protect their higher milk price by placing a protectionist tariff on all milk coming into the region from outside.

Clearly this too would be considered a violation of the commerce clause if subject to the scrutiny of the courts.

However understanding the threat that this constitutionality question poses to their efforts, the Northeast have been very clever in getting around that question by packaging the pricing scheme as a compact.

The Constitution allows States to enter into a compact with other States, as long as those compacts are approved by Congress. This authority has been used many times, without controversy, by States that seek to address multistate environmental or transportation concerns. But it has never been used to allow States to engage in price-fixing activities. And it has never been used as a way to circumvent the commerce clause of the Constitution.

Make no mistake about it. This compact is unprecedented in the history of the Nation.

While the context of this compact may be milk pricing, its ramifications are far more significant. Congressional approval of this compact is an invitation for all sorts of economic balkanization.

Our forefathers had the foresight to see the dangers of allowing States and regions to erect economic barriers against other States in the Union. They asked the question "What are we, as a nation, if we do not have a unified economic market?"

Last year, when the Northeast Dairy Compact was considered in the Senate Judiciary Committee, many of my colleagues raised constitutional concerns with the compact.

Senator HATCH commented on this matter. He stated:

I am afraid that this is the kind of precedent-setting compact that will lead other States to seek the same type of protection, to the economic detriment of all their bordering States. More importantly, I would expect that other industries will line up seeking compacts as a means of protecting their particular States' interests, and we just can't go down that route.

On the same matter, Senator THURMOND stated:

I believe that Congressional approval of this compact would set a bad precedent. Approval would encourage other regions of our country to form compacts to assist regional producers in a variety of industries at the expense of those outside the region. A breakdown of our nation into regional cartels and economic infighting would be very harmful and should be opposed.

At that same markup in the Judiciary Committee last year, Senator GRASSLEY stated:

Historically, these compacts have dealt with border issues, environmental cooperation, and other subjects limited to the member States not having an impact on the rest of the country. . . . Without Congressional approval, I believe that the compact would be unconstitutional. Clearly, if one of the States in the compact enacted State legislation along these lines, the Commerce Clause would be violated. Protection of in-state industry against out-of-State industry is prohibited. I think that we should be very hesitant to allow a group of States to do what a single State could not do under our Constitution.

And lastly, my good friend from Illinois, Senator SIMON, added:

I tend to agree with Senator GRASSLEY that this [Compact] is probably constitutional. . . . But what is constitutional is not necessarily wise.

Mr. President, the Senate Agriculture Committee has already started the debate on the reauthorization of national farm programs through the 1995 farm bill. It is my sincere hope that as we begin that debate, we can craft dairy policy changes that are beneficial to all the dairy farmers of this country, not just those of one region.

I too want to help the farmers of this Nation. But I firmly believe that the Northeast Dairy Compact is the wrong approach.

Another provision of this amendment authorizes a class IV price for milk. The rationale for this provision is that since the Senate Agriculture Committee eliminated the price support for milk powder and butter, the prices for those products will fall to world prices. However, the problem is that the class IV price would merely create a tax on all dairy farmers nationwide, to be transferred to the farmers in those few States that have excess milk production, and put that excess milk into butter and powder. In short, this imposes a butter/powder tax on the dairy farmers of all States, to be transferred to the dairy farmers of those States producing those products.

I urge my colleagues to join me in strong opposition to this compact and the class IV pricing provisions.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I raise a point of order against the amendment offered by the Senator as not being germane.

Mr. STEVENS. Will the Senator use his microphone. We cannot hear him.

Mr. EXON. Mr. President, I raise a point of order against the amendment offered by the Senator on the basis it is not germane.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to waive the Budget Act 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 clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 65, nays 34, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—65

Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Gorton	McConnell
Biden	Graham	Mikulski
Bond	Gramm	Moynihan
Boxer	Gregg	Murkowski
Breaux	Heflin	Murray
Bryan	Helms	Nunn
Bumpers	Hollings	Pell
Burns	Hutchison	Pryor
Byrd	Inhofe	Reid
Campbell	Inouye	Robb
Chafee	Jeffords	Rockefeller
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Shelby
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerry	Stevens
Daschle	Leahy	Thomas
Dodd	Lieberman	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	

NAYS—34

Abraham	Frist	Moseley-Braun
Bennett	Glenn	Nickles
Bingaman	Grams	Pressler
Bradley	Grassley	Roth
Brown	Harkin	Santorum
Coats	Hatch	Simon
Conrad	Hatfield	Simpson
DeWine	Kerrey	Specter
Dole	Kohl	Thompson
Dorgan	Kyl	Wellstone
Exon	Lautenberg	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the amendment.

The amendment (No. 3004) was agreed to.

Mr. COCHRAN. 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. EXON. Mr. President, it is our turn to offer an amendment. I yield to the Senator from New Jersey 30 seconds for the purpose of explaining and introducing his motion.

MOTION TO COMMIT

Mr. LAUTENBERG. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and

to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

Mr. LAUTENBERG. Mr. President, this is a fairly simple motion. It is to recommit, to cut the tax breaks for those who make over a million dollars a year, and to have the savings that occur apply to reduce the cuts that are contemplated in Medicare and Medicaid. I hope that we can finally reach a point at which we say across the board here that at some point we are not going to give tax breaks to those with the enormous incomes. We are talking about a million dollars a year on this.

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

AMENDMENT NO. 3005 TO THE LAUTENBERG motion to commit

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3005 to the Lautenberg motion to commit.

Mr. CRAIG. 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:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment:

At the end of the bill, add the following title:

TITLE XIII—CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995.

AMENDMENT NO. 3006 TO AMENDMENT NO. 3005

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3006 to amendment No. 3005.

Mr. CRAIG. Mr. President, this is a very important, yet understandable amendment. It changes the adoption tax credit of $5,000, and we are offering this in this reconciliation package to an effective date of January, and I believe the second-degree moves it to February 1995.

Mr. KENNEDY. Parliamentary inquiry; could we have a reading of the second-degree amendment? Was it waived?

The PRESIDING OFFICER (Mr. GORTON). The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. CRAIG. I ask unanimous consent reading of the amendment be dispensed with.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, I believe under the agreement we have 30 seconds to respond to this amendment. For that purpose——

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section.

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

Mr. EXON. Mr. President I yield the 30 seconds of our time to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, what is happening here is quite clear: Instead of just letting us vote on whether or not the other side is willing to accept some level at which we are saying we will not give tax breaks to those individuals, instead we are going to try to keep the cuts in Medicare and Medicaid from being as high as they are.

Why, I do not understand, why can we not simply have a vote on it? I think by not permitting a vote they are absolutely voting on the Republican side. They are saying that we are not even going to cut off our friends who make $1 million a year or more.

I hope we can get to a vote on my amendment, Mr. President.

Mr. DOMENICI. Mr. President, the fact is that the tax bill before the U.S. Senate, 90 percent of the tax cut goes to Americans earning $100,000 or less. That is the fact.

This is a political amendment. We have a right to offer second degree and when we find amendments like this we will do that.

The PRESIDING OFFICER. All time is expired on the second-degree amendment.

AMENDMENT NO. 3007 TO AMENDMENT NO. 3005

Mr. LAUTENBERG. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3007 to amendment No. 3005.

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

Mr. DOMENICI. Mr. President, we have not seen the amendment.

Mr. LAUTENBERG. Mr. President, if the manager would permit me, it is exactly the same as the amendment that

I sent up originally, and I am asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Can we substitute for this amendment?

The PRESIDING OFFICER. No further amendments are in order.

Mr. DOMENICI. Mr. President, I move to table the 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 clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—55

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

NAYS—44

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

So the motion to lay on the table the amendment (No. 3007) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3005

The PRESIDING OFFICER. The question occurs on amendment No. 3005.

The majority leader.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Could you get a little order?

Mr. LAUTENBERG. Can we have order in the Senate please, Mr. President?

Mr. DOLE. Mr. President, is it appropriate to withdraw the amendment at this time?

The PRESIDING OFFICER. The Senate is not in order. Members cannot hear.

Mr. DOLE. We withdraw the amendment.

The amendment (No. 3005) was withdrawn.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I am trying to find out what they desire to do at this point.

Mr. LAUTENBERG. Mr. President, if I am given the floor for a moment——

Mr. DOMENICI. I yield part of my time.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to withdraw my motion to commit.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

The motion was withdrawn.

Mr. DOMENICI. I think Senator NICKLES is ready for an amendment on our side.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 3008

(Purpose: To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. DOLE, Mr. ROTH, Ms. SNOWE, and Mr. CHAFEE, proposes an amendment numbered 3008.

Mr. NICKLES. 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 1332, beginning with line 5, strike all through page 1336, line 17.

Mr. NICKLES. Mr. President, this amendment I send to the desk on behalf of myself, Senator DOLE, Senator ROTH, Senator SNOWE, and Senator CHAFEE is an amendment that would eliminate section 7573, which would require States to collect an annual amount equal to a $25 application fee and 6.6 percent of collections for non-AFDC families, if they use child support enforcement services.

I think this provision should not have been in the bill. I mentioned that during the Finance Committee hearings. I have worked with the majority leader, and, also, Senator ROTH says this section should be stricken. That is what this amendment would do.

The Governors strongly support this amendment. They do not think that they should be mandated to have the child support enforcement check fees in this bill. I agree.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, here we are. I am fearful. I am making inquiry. Are we violating the agreement that we should have a copy of this amendment? I thought we had agreed earlier they had been filed.

Mr. NICKLES. Mr. President, the question was asked, Is this a 10-percent tax? My colleague from New Jersey raised this as well. Originally, this was a 10-percent tax. I think the committee made adjustments and made it 6.6 percent. I happen to agree with him that even at 6.6 percent, the tax is too high.

Also, Mr. President, I ask unanimous consent Senator CHAFEE be added as a cosponsor.

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

Mr. NICKLES. We are eliminating the 6.6-percent tax.

Mr. DOMENICI. We do not need a vote.

Mr. EXON. It would appear to me, with the 30 seconds that I have on this side of the aisle, that as of now this Senator has not been advised that there is any opposition to this matter on this side.

Evidently, we have found this was given to us in a different order.

Does anyone wish to oppose?

Mr. BRADLEY. As I understand it, the amendment offered by Senator NICKLES is the exact content of the amendment that I was going to offer. So I have no opposition.

Mr. EXON. Hearing no objection on this side, I yield back the remainder of my time and suggest possibly this could be voice voted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3008) was agreed to.

Mr. EXON. 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.

Mr. EXON. Mr. President, the next amendment that we have agreed to consider would be by the Senator from New York. I yield the required time allotted to us to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Might we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Chair asks that conversations be taken off the floor.

Does the Senator from New York have an amendment at the desk?

AMENDMENT NO. 3009

(Purpose: To strike the reduction of indirect medical education payments to teaching hospitals)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 3009.

Mr. MOYNIHAN. 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 541, strike line 10, and all that follows through page 542, line 8.

Mr. MOYNIHAN. Mr. President, this amendment would strike the 40-percent reduction in indirect medical education payments in the reconciliation bill and restore $9.9 billion to teaching hospitals in the years 1996 to 2002. This reconciliation bill seriously threatens the future of medical research, physician training and care for the indigent. Teaching hospitals are a national treasure. To abandon them now would be a tragedy.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment adds $9.9 billion to the deficit. In the Finance Committee bill, $1.7 billion is added back to this. I think we ought to table this amendment and move on to the next one.

Mr. President, I move to table 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from New York. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 530 Leg.]

YEAS—51

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

NAYS—48

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

So, the motion to lay on the table the amendment (No. 3009) was agreed to.

Mr. EXON. 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. 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. DOMENICI. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

AMENDMENTS NOS. 3010 THROUGH 3014, EN BLOC

Mr. DOMENICI. Mr. President, I am going to send to the desk, with the full concurrence of the ranking member and no objection that I am aware of, six amendments en bloc. Let me just list them: a Dole-Kohl-Grassley amendment with reference to truckers that has been agreed to on both sides; the Hutchison amendment that we had a little while ago that was withdrawn—it has been cleared on both sides—a Senator D'AMATO sense of the Senate.

Mr. BYRD. That amendment has not been cleared on both sides. I have just been talking with Mrs. HUTCHISON.

Mr. DOMENICI. We withdraw it. I say to Senator HUTCHISON, that has not been cleared on their side.

Senator D'AMATO has an amendment cleared on both sides, a sense of the Senate; Senator GRASSLEY has one with reference to an advisory task force; Senator BOXER has one on no pay—what do you call it, I say to the Senator?

Mrs. BOXER. No pay. We already passed it.

Mr. DOMENICI. We already passed it. Senator GRAHAM, an amendment to ensure Medicare beneficiaries have urgent Medicare treatment. We have no objection to it.

I send all five to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. I ask they be reported en bloc and accepted en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 3010 through 3014, en bloc.

The amendments, en bloc, are as follows:

AMENDMENT NO. 3010

(Purpose: To increase the deductibility of business meal expenses for individuals subject to Federal limitations on hours of service and to provide offsetting revenues)

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

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. KOHL. Mr. President, the amendment that I am offering with Senator DOLE will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers, and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

Mr. INOUYE. Mr. President, I understand Senator KOHL is expected to offer an amendment that would restore the business meals deduction from 50 to 80 percent for workers using Department of Transportation [DOT] hours-of-service regulations. The amendment specifically targets only the segment of middle-income Americans who, due to the nature of their employment, must eat away from home. Such individuals include truckers, busdrivers, and some railworkers. The deduction for business meals and entertainment expenses was reduced from 80 to 50 percent under the Omnibus Budget Reconciliation Act of 1993 and went into effect on January 1, 1994.

I support Senator KOHL'S efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. However, I strongly believe that

the amendment should go further than the transportation segment of the population. I, along with Senator HATCH and others, have introduced S. 216, which would restore the business meals deduction to 80 percent of all industries.

The restoration of this deduction is essential to the livelihood of the food service, travel and tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of this reduction. All are major industries employing millions of people, many of whom are already feeling the effects of the reduction.

Contrary to what many might believe, most individuals who purchase business means are small business persons: 70 percent have incomes below $50,000, 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 about $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fat cats.

Again, I commend Senator KOHL for his efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. I urge my colleagues to also support my bill, S. 216, which would restore the business meals deduction to 80 percent for all industries.

AMENDMENT NO. 3011

(Purpose: Expressing the sense of the Senate regarding the tax treatment of conversions of thrift charters to bank charters)

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

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

Mr. D'AMATO. MR. President, this sense-of-the-Senate resolution would express the will of the Senate that Congress should eliminate a significant disincentive in the current law which prevents thrift institutions from changing their charters. It also prevents thrifts from diversifying into other lending opportunities. Given developments in financial institutions and the debate in Congress over the future of the thrift industry, it is desirable for Congress to seriously examine this aspect of the tax law that applies only to thrifts.

AMENDMENT NO. 3012

On pages 764 and 765, section 2106, Medicaid Task Force, under subsection (c) "Advisory Group for the Task Force" and new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION.

Redesignate old (14) to be (15); redesignate old (15) to be (16); redesignate old (16) to be (17); redesignate old (17) to be (18).

AMENDMENT NO. 3013

(Purpose: To provide that Members of Congress and the President shall not be paid during Federal Government shutdowns)

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

Mrs. BOXER. Mr. President, this amendment is identical to one offered to the D.C. appropriations bill that passed the Senate unanimously and was cosponsored by both the majority and minority leaders, among others.

Because this issue is so important and because the D.C. bill appears to have stalled in the House, I believe it is important for the Senate to revisit this proposal.

Under my amendment, if there is a lapse in appropriations for any Federal department or agency or if the Government is unable to operate because of a default caused by a failure to raise the Federal debt ceiling, the pay for Members of Congress and the President will be docked.

I believe this legislation is important for two key reasons:

First, it will help avert the predicted Government shutdown by helping Members of Congress understand the fear and uncertainty now being felt by the millions of Americans who rely on Government services.

Second, it codifies a principle that all other workers in America live by: If you do not do your job, you should not get paid. One of Congress' most important functions is to pass the Nation's budget. If we fail in that critically important task, it simply makes sense that our pay should be docked.

Mr. President, this amendment makes common sense, and I thank the managers for accepting it.

AMENDMENT NO. 3014

(Purpose: to ensure medicare beneficiaries have emergency or urgent care provided and paid for by medicare choice plans by establishing a definition of an emergency medical condition that is based upon the prudent layperson standard)

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization for the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

Mr. EXON. Mr. President, I yield back all time assigned to us.

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

The PRESIDING OFFICER. The question is on agreeing to the amendments numbered 3010 through 3014, en bloc.

The amendments (Nos. 3010 through 3014, en bloc) were agreed to.

Mr. EXON. 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, could I yield myself 1 minute for a discussion with the Senators?

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

Mr. DOMENICI. Mr. President, I think we sort of set a pattern here. If the Senators could look at the remaining amendments—I say this to both sides; we will do it on ours—if the Senators could look at theirs, maybe they could package them with reference to subject matter. If the Senators package them with reference to subject matter, then we might get five amendments all of which deal with the subject. We think we know how they are going to turn out, but that is not terribly relevant. We could offer them en bloc.

Mr. BYRD. Mr. President, I hope that we will be careful that we do not try to streamline this silly process further. Now we are really flying deaf, dumb, and blind. So I hope we will look at these so-called packages with four or five amendments. I want to see them.

I am not going to set myself up as a traffic cop, but this process is just entirely out of control. We do not know what we are voting on now. Now we are just voting on amendments. They do not know what is in this bill.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. Mr. President, I want to thank Senator BYRD for his concern. We discussed this concern on the whole process, and, hopefully, this is the last time we will have it under this process. We should change it. But I have to get a bill through under this process. We will be as careful as we can. If we need to, we will certainly consult with a broad array of Senators before we proceed.

Is another amendment ready?

Mr. EXON. Mr. President, whose turn is it?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I recognize the Senator from Connecticut for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Nebraska.

LIEBERMAN MOTION TO COMMIT

Mr. LIEBERMAN. Mr. President, I have a motion at the desk which I offer on behalf of myself, and Senators DASCHLE, HARKIN, GRAHAM, ROCKEFELLER, BREAUX, and KENNEDY, who are members of a Medicare working group.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], moves to commit the bill to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, with the following amendment, and to make sufficient reductions in the tax cuts to maintain deficit neutrality.

(Purpose: To restore the solvency of the Medicare part A Hospital Insurance Trust Fund for the next 10 years. To reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plans available, providing better information so that beneficiaries can act as informed consumers and to require strategic planning for the demographic changes that will come with the retirement of the "babyboom" generation)

On page 442, beginning on line 1, strike all through page 748, line 18, and insert:

Subtitle A—Medicare

SEC. 7001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Medicare Improvement and Solvency Protection Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

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Sec. 7002. Increasing choice under medicare.
Sec. 7003. Provisions relating to medicare coordinated care contracting options.
Sec. 7004. Provisions relating to medicare supplemental policies.
Sec. 7005. Special rule for calculation of payment rates for 1996.
Sec. 7006. Graduate medical education and disproportionate share payment adjustments to hospitals providing services to enrollees in eligible organizations.
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Sec. 7025. Improving health care access and reducing health care costs through telemedicine.
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CHAPTER 1—PROVISIONS TO IMPROVE AND EXPAND MEDICARE CHOICES

SEC. 7002. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH TRADITIONAL MEDICARE SYSTEM.—Through the provisions of parts A and B (hereafter in this section, referred to as the 'traditional medicare option').

"(B) THROUGH AN ELIGIBLE ORGANIZATION.—Through an eligible organization with a contract under part C.

"(b) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed during enrollment periods specified under part C.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an open enrollment period described in section 1852(b)(3) is deemed to have chosen the traditional medicare option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with an eligible organization at the time of an open enrollment period described in section 1852(b)(3) and who fail to elect to receive coverage other than through the organization are deemed to have elected to have enrolled in a plan offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) an eligible organization's plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in eligible organizations under this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7003. PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS

"DEFINITIONS

"SEC. 1851. For purposes of this part:

"(a) ADJUSTED COMMUNITY RATE.—The term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this part with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this part with the eligible organization, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this part and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this part with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(b) ELIGIBLE ORGANIZATION.—

"(1) IN GENERAL.—The term 'eligible organization' shall include any of the public or private entities described in paragraph (2), organized under the laws of any State:

"(2) ENTITIES DESCRIBED.—The entities described in this paragraph are the following:

"(A) COORDINATED CARE PLANS.—

"(i) IN GENERAL.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including—

"(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

"(II) beginning with services provided on or after January 1, 1997, preferred provider organization plans, point of service plans, provider-sponsored network plans, or other

integrated health plans (subject to approval by the Secretary).

"(ii) REQUIREMENTS FOR CERTAIN COORDINATED CARE PLANS.—A coordinated care plan described in clause (i)(II) shall meet the following requirements:

"(I) The plan shall be in the business of providing a plan of health insurance or health benefits and be organized under the laws of any State.

"(II) The plan shall provide physician's services directly or through physicians who are either employees or partners of such an organization or through contracts or agreements with individual physicians or one or more groups of physicians.

"(III) The plan has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(IV) The plan has effective procedures, satisfactory to the Secretary, to monitor utilization and to control the costs of services.

"(V) The plan shall offer all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1).

"(VI) The plan shall provide all enrollees under this part with a comprehensive out-of-plan service benefit (point-of-service) that allows enrollees to obtain all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1) from a provider with whom the plan does not have a contract.

"(VII) The plan shall provide that cost-sharing for services described in subclause (VI) may not exceed the deductibles and coinsurance amounts applicable to services under part A or B.

"(VIII) A provider under contract with the plan may not bill an enrollee under this part an amount in excess of the applicable cost-sharing amount of the rate negotiated between the provider and the plan.

"(IX) The plan shall meet quality and access standards under this part.

"(iii) POINT-OF-SERVICE OPTION.—Not later than January 1, 1996, the Secretary shall issue guidelines that would permit a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) to offer a point-of-service option under a risk-sharing contract under this part.

"(B) COMPETITIVE MEDICAL PLAN.—A competitive medical plan that meets the following requirements:

"(i) The entity provides to enrolled members at least the following health care services:

"(I) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

"(II) Inpatient hospital services (except in the case of an entity that had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970).

"(III) Laboratory, X-ray, emergency, and preventive services.

"(IV) Out-of-area coverage.

"(ii) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(iii) The entity provides physicians' services primarily—

"(I) directly through physicians who are either employees or partners of such organization, or

"(II) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(iv) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in clause (i), except that such entity may—

"(I) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in clause (i) the aggregate value of which exceeds $5,000 in any year,

"(II) obtain insurance or make other arrangements for the cost of health care service listed in clause (i) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(III) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(IV) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(v) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(3) PROVIDER SPONSORED NETWORK.—The term 'provider sponsored network' has the meaning given such term in section 1858(a).

"(c) CONTRACTS.—The term—

"(1) 'risk-sharing contract' means a contract entered into under section 1856(b); and

"(2) 'reasonable cost reimbursement contract' means a contract entered into under section 1856(c).

"(d) AREAS.—

"(1) PAYMENT AREA.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'payment area' means an entire metropolitan statistical area or single statewide area that does not include a metropolitan statistical area.

"(B) EXCEPTION.—The Secretary may modify the geographic area covered by a payment area if the application of paragraph (1) would result in a substantial disruption of services provided to enrollees under this part by eligible organizations in an area.

"(2) SERVICE AREA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'service area' means, with respect to an eligible organization, the payment area for such organization.

"(B) EXCLUSION.—The Secretary may permit an organization's service area to exclude any portion of a payment area (other than the central county of a metropolitan statistical area) if—

"(i) the organization demonstrates that it lacks the financial or administrative capacity to serve the entire payment area; and

"(ii) the Secretary finds that the composition of the organization's service area does not reduce the financial risk to the organization of providing services to enrollees because of the health status or other demographic characteristics of individuals residing in the service area (as compared to the health status or demographic characteristics of individuals residing in the portion of the payment area which the organization seeks to exclude from its service area).

"ELIGIBILITY, ENROLLMENT AND DISENROLLMENT, AND INFORMATION

"SEC. 1852. (a) ELIGIBILITY FOR ENROLLMENT.—Subject to the provisions of subsection (b), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this part with any eligible organization with which the Secretary has entered into a contract under this part and which serves the geographic area in which the individual resides.

"(b) COORDINATED OPEN ENROLLMENT PERIOD.—

"(1) IN GENERAL.—Each eligible organization must have an open enrollment period (which shall be specified by the Secretary for each payment area), for the enrollment of individuals under this part, of at least 30 days duration every year and including the period or periods specified under paragraphs (2) through (4), and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (a) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of section 1855(k) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the service area of the organization.

"(2) OPEN ENROLLMENT PERIODS IF CONTRACT NOT RENEWED OR TERMINATED.—

"(A) IN GENERAL.—If a risk-sharing contract under this part is not renewed or is otherwise terminated, eligible organizations with risk-sharing contracts under this part and serving a part of the same service area as under the terminated contract are required to have an open enrollment period for individuals who were enrolled under the terminated contract as of the date of notice of such termination. If a risk-sharing contract under this part is renewed in a manner that discontinues coverage for individuals residing in part of the service area, eligible organizations with risk-sharing contracts under this part and enrolling individuals residing in that part of the service area are required to have an open enrollment period for individuals residing in the part of the service area who were enrolled under the contract as of the date of notice of such discontinued coverage.

"(B) DURATION OF PERIOD.—The open enrollment periods required under subparagraph (A) shall be for 30 days and shall begin 30 days after the date that the Secretary provides notice of such requirement.

"(C) EFFECT OF ENROLLMENT.—Enrollment under this paragraph shall be effective 30 days after the end of the open enrollment period, or, if the Secretary determines that such date is not feasible, such other date as the Secretary specifies.

"(3) ENROLLMENT UPON MEDICARE ELIGIBILITY.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) during any enrollment period specified by section 1837 that applies to that individual.

Enrollment under this paragraph shall be effective as specified by section 1838.

"(4) MOVED FROM GEOGRAPHIC AREA OR DISENROLLED FROM ANOTHER ORGANIZATION.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) who has previously resided outside the organization's service area or who has disenrolled from another organization. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that service area or disenrolls from another plan and shall end at the end of the following month. Enrollment under this paragraph shall be effective as of the first of the month following the month in which the individual enrolls.

"(5) PROCEDURES FOR ENROLLMENT AND DISENROLLMENT.—An individual may enroll under this part with an eligible organization in such manner as may be prescribed in regulations (including enrollment through a third party) and may terminate the individual's enrollment with the eligible organization as of the beginning of the first calendar month following the date on which the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations. In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.

"(6) ENROLLMENT AND DISENROLLMENT BY MAIL, PHONE, OR LOCAL SOCIAL SECURITY OFFICE.—

"(A) IN GENERAL.—Each eligible organization that provides items and services pursuant to a contract under this part shall permit an individual eligible to enroll under this part—

"(i) to obtain enrollment forms and information by mail, telephone, or from local social security offices, and

"(ii) to enroll or disenroll by mail or at a local social security office.

"(B) NO VISITS BY AGENTS.—No agent of an eligible organization may visit the residence of such an individual for purposes of enrolling the individual under this part or providing enrollment information to the individual.

"(c) INFORMATION.—

"(1) INFORMATION DISTRIBUTED BY ORGANIZATION.—The Secretary shall prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this part may inform individuals eligible to enroll under this part with the organization about the organization, or may enroll such individuals with the organization. No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this part unless—

"(A) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review; and

"(B) the Secretary has not disapproved the distribution of the material.

The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(2) DISTRIBUTION OF COMPARATIVE MATERIALS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall develop and distribute comparative materials during the enrollment periods described in paragraphs (1) and (3) of subsection (b) to individuals eligible to enroll under this part. Such comparative materials shall present comparative information (in a standardized format and in language easily understandable by the target population) about all eligible organizations with contracts under this part and medicare supplemental policies under section 1882 available in the individual's payment area. The Secretary shall allocate the costs for developing and distributing such materials to such eligible organizations and issues medicare supplemental policies represented in such materials.

"(B) MATERIAL DESCRIBED.—The comparative materials distributed under subparagraph (A) shall include where applicable, with respect to eligible organizations and medicare supplemental policies, the following information:

"(i) Benefits, including maximums limitations and exclusions.

"(ii) Premiums, cost-sharing, administrative charges and availability of out-of-plan services.

"(iii) Coordination of care.

"(iv) Procedures for obtaining benefits including the locations, qualifications, and availability of participating providers.

"(v) Grievance and appeal procedures, including the right to address grievances with the organization to the Secretary and the appropriate peer review entity.

"(vi) Programs for health promotion, the prevention of diseases, disorders, disabilities, injuries and other health conditions.

"(vii) Rights and responsibilities of enrollees.

"(viii) Prior authorization requirements.

"(ix) Procedures used to monitor and control utilization of services and expenditures.

"(x) Procedures for assuring and improving quality of care.

"(xi) Risk and referral arrangements under the plan.

"(xii) Loss ratios and an easily understandable explanation that such ratio reflects the percentage of premiums spent on health services compared to total premiums paid.

"(xiii) Whether the organization is out-of-compliance with standards (as defined by the Secretary).

"(xiv) In the case of medicare supplemental policies, underwriting policies and projected premiums in age-bands.

"BENEFITS AND PREMIUMS

"SEC. 1853. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—

"(A) COVERED SERVICES.—Except as provided in subparagraph (B), the organization must provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(i) only those services covered under parts A and B of this title (and such preventive health services and reduced cost-sharing as the Secretary may designate) for those members entitled to benefits under part A and enrolled under part B, or

"(ii) only those services covered under part B of this title (and such preventive health services and reduced cost-sharing designated under clause (i)) for those members enrolled only under such part.

"(B) ADDITIONAL SERVICES.—The organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(C) PAYMENTS IN LIEU OF OTHER AMOUNTS.—Subject to paragraph (2)(B) and section 1857(h), payments under a contract to an eligible organization under subsection (a) or (b) of section 1857 shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this part.

"(2) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1857(a)(1) and ending on the date of the next announcement under such section that the Secretary projects will result in a significant change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to risk-sharing contracts under this part until the first contract year that begins after the end of such period; and

"(B) if such coverage determination provides for coverage of additional benefits or under additional circumstances, paragraph (1)(C) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(b) PREMIUMS, DEDUCTIBLES, COINSURANCE, AND COPAYMENTS.—

"(1) IN GENERAL.—In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B, preventive services designated under section 1853(a)(1), and, if applicable, the point-of-service benefit described in section 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B, preventive services designated under section 1853(a)(1) and the point-of-service benefit described in section, if applicable, 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and enrolled under part B only,

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value,

the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

"(2) ADDITIONAL SERVICES.—If the eligible organization provides to its members enrolled under this part services in addition to services covered under parts A and B of this title and such preventive health services designated by the Secretary under subsection (a)(1)(A), election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (a)(1)(B)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this part, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members,

exceed the adjusted community rate for such services.

"(c) SECONDARY PAYER.—Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this part for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such member to the extent that the member has been paid under such law, plan, or policy for such services."

"PATIENT PROTECTIONS

"SEC. 1855. (a) ANTIDISCRIMINATION.—The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(b) EXPLANATION OF RIGHTS.—Each eligible organization shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this part, including an explanation of—

"(1) the enrollee's rights to benefits from the organization,

"(2) if any the restrictions on payments under this title for services furnished other than by or through the organization,

"(3) out-of-area coverage provided by the organization,

"(4) the organization's coverage of emergency services and urgently needed care, and

"(5) appeal rights of enrollees.

"(c) ASSURANCES RELATING TO PREEXISTING CONDITION.—Each eligible organization that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

"(d) NOTICE OF RIGHT TO TERMINATE CONTRACT OR REFUSE TO RENEW.—

"(1) IN GENERAL.—Each eligible organization having a risk-sharing contract under this part shall notify individuals eligible to enroll with the organization under this part and individuals enrolled with the organization under this part that—

"(A) the organization is authorized by law to terminate or refuse to renew the contract, and

"(B) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this part.

"(2) NOTICE INCLUDED.—The notice required by paragraph (1) shall be included in—

"(A) any marketing materials described in section 1852(c)(1) that are distributed by an eligible organization to individuals eligible to enroll under this part with the organization, and

"(B) any explanation provided to enrollees by the organization pursuant to subsection (b).

"(e) ACCESS.—

"(1) IN GENERAL.—The organization must—

"(A) make the services described in section 1853(a)(1)(A) (and such other health care services as such individuals have contracted for)—

"(i) available and accessible to each such individual, within the area served by the organization, with reasonable promptness and in a manner which assures continuity, and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week, and

"(B) provide for reimbursement with respect to emergency services which are provided to such an individual other than through the organization.

"(2) EMERGENCY SERVICES DEFINED.—For purposes of this subsection, the term 'emergency services' means services provided to an individual after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected by a prudent layperson (possessing an average knowledge of health and medicine) to result in placing the individual's health in serious jeopardy, the serious impairment of a bodily function, or the serious dysfunction of any bodily organ or part, and includes services furnished as a result of a call through the 911 emergency system.

"(3) NO PRIOR AUTHORIZATION.—An eligible organization with a contract under this part may not require prior authorization for emergency services.

"(f) HEARING AND GRIEVANCES.—

"(1) IN GENERAL.—The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this part.

"(2) HEARING BEFORE THE SECRETARY.—A member enrolled with an eligible organization under this part who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(g) ARRANGEMENTS FOR ONGOING QUALITY ASSURANCE.—The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program—

"(1) stresses health outcomes; and

"(2) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(h) ADVANCE DIRECTIVES.—A contract under this part shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(i) UTILIZATION REVIEW PROGRAM.—

"(1) IN GENERAL.—An eligible organization may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under paragraph (2).

"(2) STANDARDS.—The Secretary shall establish standards for utilization review programs of eligible organizations, consistent with paragraph (3), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties.

"(3) CONTENTS OF STANDARDS.—Under the standards established under paragraph (2)—

"(A) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage; and

"(B) determinations regarding requests for authorization for service shall be made in a timely manner, based on the urgency of the request.

"(j) QUALIFIED HEALTH PROVIDERS.—

"(1) IN GENERAL.—The eligible organization shall demonstrate to the Secretary that the organization has a sufficient number, distribution, and variety of qualified health care providers to ensure that all covered health care services will be available and accessible in a timely manner to all individuals enrolled in the organization.

"(2) SPECIALISTS.—The eligible organization shall demonstrate to the Secretary that organization enrollees have access, when medically or clinically indicated in the judgment of the treating health professional, to specialized treatment expertise.

"(3) DISTANCE.—In order to meet the requirements of paragraph (1), any eligible organization that restricts an enrollee's choice

of doctor shall provide that primary care services for each enrollee who lives in a rural area (as defined in section 1886(d)(2)(D)) are not more than 30 miles or 30 minutes in travel time from the enrollee's residence. The Secretary may provide for exceptions from this paragraph on a case-by-case basis.

"(k) 50/50 RULE.—

"(1) IN GENERAL.—Each eligible organization with which the Secretary enters into a contract under this part shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) MODIFICATION OR WAIVER.—Subject to paragraph (3), the Secretary may modify or waive the requirement imposed by paragraph (1) only—

"(A) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX,

"(B) in the case of an eligible organization that is owned and operated by a governmental entity, only with respect to a period of 3 years beginning on the date the organization first enters into a contract under this part, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX, or

"(C) the Secretary determines (in accordance with criteria developed by the Secretary not later than January 1, 1997) that individuals who are entitled to benefits under this title who are enrolled with the eligible organization with a contract under this part in the organization's payment area receive the same quality of service as enrollees in private sector health plans in the same payment area.

"(4) FAILURE TO COMPLY.—If the Secretary determines that an eligible organization has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"CONTRACTS WITH ELIGIBLE ORGANIZATIONS

"SEC. 1856. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of enrollment in an eligible organization under this part, and no payment shall be made under section 1857 to an organization, unless the Secretary has entered into a contract under this part with the organization. Such contract shall provide that the organization agrees to comply with the requirements of this part and the terms of conditions of payment as provided for in this part.

"(b) REQUIREMENTS RELATING TO RISK-SHARING CONTRACTS.—

"(1) MINIMUM ENROLLMENT.—The Secretary may enter a risk-sharing contract with any eligible organization which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urban areas.

"(2) PROVISION OF ADDITIONAL BENEFITS IF ADJUSTED COMMUNITY RATE LESS THAN PER CAPITA RATE OF PAYMENT.—

"(A) IN GENERAL.—Each risk-sharing contract shall provide that—

"(i) if the adjusted community rate, as defined in section 1851(a), for services under parts A and B and such preventive services designated by the Secretary under section 1853(a)(1) (as reduced for the actuarial value of the coinsurance and deductibles under those parts and such reduced cost-sharing designated by the Secretary under such section) for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or

"(ii) if the adjusted community rate for services under part B and such preventive services (as reduced for the actuarial value of the coinsurance and deductibles under that part and such reduced cost-sharing) for members enrolled under this part with the organization and entitled to benefits under part B only,

is less than the average of the per capita rates of payment to be made under section 1857(a) at the beginning of an annual contract period for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

"(B) EXCEPTIONS.—

"(i) RECEIPT OF LESSER PAYMENT.—Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

"(ii) STABILIZATION FUND.—An organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (4).

"(C) CALCULATION OF PER CAPITA RATES OF PAYMENT.—If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under section 1857(a) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(3) ADDITIONAL BENEFITS DESCRIBED.—The additional benefits referred to in paragraph (2) are—

"(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this part, or

"(B) the provision of additional health benefits,

or both.

"(4) STABILIZATION FUND.—An organization having a risk-sharing contract under this part may (with the approval of the Secretary) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds.

"(5) PROMPT PAYMENT.—

"(A) IN GENERAL.—A risk-sharing contract under this part shall require the eligible organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(B) FAILURE TO MAKE PROMPT PAYMENT.—In the case of an eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

"(c) REASONABLE COST REIMBURSEMENT CONTRACT.—

"(1) IN GENERAL.—If—

"(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this part, or

"(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (b)(1),

the Secretary may, if the Secretary is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

"(2) REIMBURSEMENT.—A reasonable cost reimbursement contract under this part may, at the option of such organization, provide that the Secretary—

"(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to section 1852(a), and

"(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

"(3) RETROACTIVE ADJUSTMENT.—Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for

the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in section 1853(a)(1).

"(4) FINANCIAL STATEMENT.—Any reasonable cost reimbursement contract with an eligible organization under this part shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

"(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in section 1853(a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this part and other individuals enrolled with such organization;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

"(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

"(d) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—

"(A) IN GENERAL.—Each contract under this part shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(B) TERMINATION OR IMMEDIATE SANCTIONS FOR CAUSE.—The Secretary, in accordance with procedures established under paragraph (9), may terminate any such contract at any time, or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable), if the Secretary finds that the organization—

"(i) has failed substantially to carry out the contract,

"(ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, or

"(iii) no longer substantially meets the applicable conditions of this part.

"(2) EFFECTIVE DATE OF CONTRACT.—The effective date of any contract executed pursuant to this part shall be specified in the contract.

"(3) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Each contract under this part—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate—

"(I) the quality, appropriateness, and timeliness of services performed under the contract, and

"(II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain—

"(I) to the ability of the organization to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the organization; and

"(C)(i) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members);

"(ii) shall require the organization to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section;

"(iii) shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties; and

"(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this part was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(6) INTERMEDIATE SANCTIONS.—

"(A) IN GENERAL.—If the Secretary determines that an eligible organization with a contract under this part—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this part, or

"(II) to an individual or to any other entity under this part;

"(vi) fails to comply with the requirements of section 1856(b)(5); or

"(vii) in the case of a risk-sharing contract, employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in subparagraph (B).

"(B) REMEDIES DESCRIBED.—The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,

"(ii) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1)(B) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the

Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128(a).

"(7) UTILIZATION AND PEER REVIEW ORGANIZATION.—

"(A) IN GENERAL.—Each risk-sharing contract with an eligible organization under this part shall provide that the organization will maintain a written agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the eligible organization is located) or with an entity selected by the Secretary under section 1154(a)(4)(C) under which the review organization will perform functions under section 1154(a)(4)(B) and section 1154(a)(14) (other than those performed under contracts described in section 1866(a)(1)(F)) with respect to services, furnished by the eligible organization, for which payment may be made under this title.

"(B) COST OF AGREEMENT.—For purposes of payment under this title, the cost of such agreement to the eligible organization shall be considered a cost incurred by a provider of services in providing covered services under this title and shall be paid directly by the Secretary to the review organization on behalf of such eligible organization in accordance with a schedule established by the Secretary.

"(C) SOURCE OF PAYMENTS.—Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

"(ii) shall not be less in the aggregate for such organizations for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting activities described in subparagraph (A) with respect to such eligible organizations under part B of title XI.

"(8) PHYSICIAN INCENTIVE PLAN.—

"(A) IN GENERAL.—Each contract with an eligible organization under this part shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

(e) SERVICES NOT FURNISHED BY ORGANIZATION.—

"(1) PARTICIPATING PHYSICIAN.—In the case of physicians' services or renal dialysis services described in paragraph (2) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with an eligible organization under this part and enrolled under part B, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the eligible organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this part.

"(2) NONPARTICIPATING PHYSICIAN.—In the case of physicians' services described in paragraph (3) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this part) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(3) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this paragraph are physicians' services or renal dialysis services which are furnished to an enrollee of an eligible organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) EXCEPTION FOR EMERGENCY SERVICES.—In the case of emergency services described in section 1855(e)(2), which are furnished by a provider that does not have a contractual relationship with the organization, the organization shall be required to reimburse the provider for the reasonable costs of providing such services.

"PAYMENT TO ELIGIBLE ORGANIZATIONS

"SEC. 1857. (a) MONTHLY PAYMENTS IN ADVANCE TO ORGANIZATION WITH RISK-SHARING CONTRACTS.—

"(1) ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) a per capita rate of payment for each class of individuals who are enrolled under this part with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(B) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

(2) IN GENERAL.—

"(A) MONTHLY PAYMENT.—In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in section 1856(b)(2), to the organization for each individual enrolled with the organization under this part.

"(B) METHOD OF DETERMINING PAYMENT.—

"(i) 1997.—For 1997, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the annual per capita rate of payment for such class which would have been determined under section 1876(a)(1)(C) for 1996 if—

"(I) the applicable geographic area were the payment area; and

"(II) 50 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures)..

"(ii) SUCCEEDING YEARS.—

"(I) IN GENERAL.—For 1998 and each succeeding calendar year, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the modified per capita rate of payment determined for such area for the preceding year, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

"(II) PHASE-OUT OF SPECIAL PAYMENTS.—In applying this clause for 1998, the modified per capita rate of payment for each such class for 1997 shall be the amount that would have been determined for 1997 if clause (i)(II) had been applied by substituting '100 percent' for '50 percent'.

"(iii) CLASSES.—The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence and not later then January 1,

1997, the Secretary shall implement risk-adjusters that were not in effect under section 1876 (as in effect on December 31, 1996.

"(iv) ADJUSTMENTS.—The Secretary shall adjust modified per capita rates of payment for a payment area under this subparagraph such that—

"(I) the portion of such rate attributable to part B shall not result in a modified per capita rate of payment for an area that is less than 85 percent of portion of the weighted average of the modified per capita rates determined under clause (i) or (ii) attributable to part B services for all payment areas for 1996; and

"(II) such rate reflects the cost of providing the benefits described in section 1853(a)(1) to enrollees.

Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

"(3) PAYMENTS ONLY TO ELIGIBLE ORGANIZATIONS.—Subject to paragraph (6) and section 1853(a)(2), if an individual is enrolled under this part with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(4) RETROACTIVE ADJUSTMENT.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this part) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this part, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(ii) EXPLANATION.—No adjustment may be made under clause (ii) with respect to any individual who does not certify that the organization provided the individual with the explanation described in section 1855(b) at the time the individual enrolled with the organization.

"(5) NOTICE OF PROPOSED CHANGES.—

"(A) IN GENERAL.—At least 45 days before making the announcement under paragraph (1) for a year the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(B) EXPLANATION.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(6) INPATIENT OF HOSPITAL AT TIME OF ENROLLMENT.—A risk-sharing contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(A) enrollment with an eligible organization under this part—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(B) termination of enrollment with an eligible organization under this part—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(b) REASONABLE COST CONTRACT.—With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with section 1856(c) rather than subsection (a).

"(c) PAYMENT FROM TRUST FUNDS.—The payment to an eligible organization under this part for individuals enrolled under this part with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows:

"(1) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

"(2) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.

The remainder of that payment shall be paid by the former trust fund.

"(d) TESTING THE USE OF COMPETITIVE PRICING PRIOR TO IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary shall implement alternative payment methodologies for determining the monthly rate that will be paid to eligible organizations with risk-sharing contracts in payment areas designated by the Secretary in accordance with paragraph (2). Such alternative payment methodologies shall be based on competitive price and include a method that determines rates based on the commercial, competitively determined rates of the organizations.

"(2) CRITERIA FOR SELECTION.—The Secretary shall develop criteria for designating payment areas, determining the minimum number of bidders necessary to effectively implement and test alternative payment methodologies, and utilizing any additional health status adjusters that may be necessary to implement such methodologies. The criteria for designating payment areas shall provide that the Secretary designate relatively high and low payment areas, relatively high and low market penetration areas, and urban and rural areas.

"(3) BIDS.—Each eligible organization desiring to enter into a risk-sharing contract under this part shall place a bid on the benefits covered under section 1853(a)(1)(A) under a methodology implemented under this paragraph. The premium structure included in the bid shall consist of enrollee cost-sharing amounts and the monthly amount to be paid from the Federal Hospital Insurance Trust Fund and Federal Supplementary Medical Insurance Trust Fund under this section. Each organization shall be required to adhere to the premium structure included in the organization's bid. An organization may offer additional benefits at a separately determined price. An organization shall not be prevented from entering into a contract under this section solely based on the level of the organization's premium bid.

"(4) REQUIRED PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), each eligible organization that desires to enter into a risk-sharing contract under this part in a payment area designated under this subsection shall receive payment under this part in accordance with this subsection, instead of subsection (a).

"(B) EXCEPTION.—The Secretary may, at the Secretary's discretion, permit an eligible organization to receive payment under this title (without regard to this part).

"(5) PROHIBITION OF REASONABLE COST CONTRACTS.—The Secretary may prohibit the use of reasonable cost contracts in payment areas designated under this subsection.

"(6) AGGREGATE PAYMENTS.—Aggregate payments under this subsection across payment areas under this subsection shall not exceed the amount that would have, in the absence of this subsection, been paid under subsection (a) to such organization for individuals enrolled under this part. Payments to eligible organizations with risk-sharing contracts in a single payment area may exceed the amount described in the preceding sentence but may not exceed 100 percent of the adjusted average per capita cost (as defined in subsection (a)(1)(B)(ii)) that would have, in the absence of this subsection, been determined for all individuals enrolled under this part.

"(7) TRANSITION RULES.—The Secretary shall develop transition rules for payment areas in which risk-sharing plan enrollees pay minimal or no premiums in order to prevent substantial increases in premiums as a result of an alternative payment methodology implemented under this subsection.

"(8) REPORT.—Not later then January 1, 2000, the Secretary shall report to Congress on specific recommendations for a new payment methodology under this part to be based on the results of the alternate methodologies implemented under this subsection.

"(e) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration project on the alternative partial risk-sharing arrangements between the Secretary and health care providers. Not later then December 31, 1998, the Secretary shall

report to the Congress on the administrative feasibility of such partial capitation methods and the information necessary to implement such methods.

"PROVIDER-SPONSORED NETWORKS

"SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

"(1) FEDERAL ACTION ON CERTIFICATION.—If—

"(A) a State fails to complete action on a licensing application of an eligible organization that is a provider-sponsored network within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

"(2) FEDERAL CERTIFICATION PROCEDURES.—

"(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

"(B) REQUIREMENTS.—Such process shall—

"(i) set forth the standards for certification,

"(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

"(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii), and

"(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application.is received by the Secretary.

"(C) EFFECT OF CERTIFICATIONS.—

"(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed, unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

"(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

"(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph, a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards, incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks, and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph, a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

"(3) REPORT.—Not later then December 31, 1999, the Secretary shall report to Congress on the Federal certification system under paragraph (2), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.".

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting ", including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C" after "part A".

SEC. 7004. PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL POLICIES.

Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraph (1), (2), or (3)",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which shall be the period specified for each geographic area by the Secretary under section 1852(b)(1)), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy because of age, health status, claims experience, past or anticipated receipt of health care, or presence of a medical condition. The policy may not exclude benefits relating to the existence of any preexisting condition. The Secretary may require enrollment and disenrollment through a third party designated under section 1876(c)(3)(B). Each issuer of a medicare supplemental policy shall have an additional open enrollment period which shall be the period specified in section 1852(b)(4).".

SEC. 7005. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act (42 U.S.C. 1395ww) for 1996 for any class for a geographic area shall be equal to the amount determined for such class for such area in 1995, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

(2) FLOOR.—The Secretary shall adjust a per capita rate of payment for a geographic area determined under this subsection for a class such that the portion of such rate attributable to part B shall not be less than 85 percent of the weighted average of the portion of the per capita rates attributable to part B services for such class determined under this subsection for all geographic areas. Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

(b) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

(c) REPORT.—Not later then July 1, 1996, the Prospective Payment Assessment Commission and the Physician Payment Review Commission shall jointly report to Congress on geographically based variations in payments to eligible organizations with a risk-sharing contract under section 1876 of the Social Security Act (42 U.S.C. 1395mm).

(d) EFFECTIVE DATE.—This section shall apply on and after the date of the enactment of this Act.

SEC. 7006. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS TO HOSPITALS PROVIDING SERVICES TO ENROLLEES IN ELIGIBLE ORGANIZATIONS.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

"(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d) hospital that is a qualified provider shall receive payment for each discharge of an individual enrolled under part C with an eligible organization as follows:

"(A) For a qualified provider that qualifies for the indirect medical education adjustment under subsection (d)(5)(B), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

"(B) For a qualified provider that qualifies for the disproportionate share adjustment under subsection (d)(5)(F), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization

with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

"(C) For a qualified provider that qualifies for payment for direct graduate medical education under subsection (h), payment shall be made by counting as medicare inpatient days the applicable percentage of those days attributable to individuals enrolled in an eligible organization with a risk-sharing contract when determining the provider's medicare patient load.

"(2) QUALIFIED PROVIDER.—For purposes of paragraph (1), the term 'qualified provider' means a provider that—

"(A) qualifies for any or all payments under subsection (d)(5)(B), (d)(5)(F) or (h); and

"(B) provides inpatient services either as an eligible organization or under a contract with an eligible organization, to individuals enrolled with an eligible organization under part C.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) for calendar year 1997, 50 percent; and

"(B) for calendar years after 1997, 100 percent.".

SEC. 7007. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this title shall apply with respect to services furnished under a contract on or after January 1, 1997.

CHAPTER 2—PROVISIONS RELATING TO QUALITY IMPROVEMENT AND DISTRIBUTION OF INFORMATION

SEC. 7011. QUALITY REPORT CARDS.

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7002, is amended by inserting after section 1805 the following new section:

"QUALITY REPORT CARDS

"SEC. 1806. (a) DISTRIBUTION OF QUALITY REPORT CARDS.—Beginning with calendar year 1997, the Secretary shall include a quality report card with the comparative materials distributed under section 1852(c)(2). The quality report card shall contain information designed to assist medicare beneficiaries in choosing eligible organizations including, as appropriate, the performance measures developed under subsection (b).

"(b) DEVELOPMENT OF PERFORMANCE MEASURES.—

"(1) DELEGATION.—

"(A) IN GENERAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall, in cooperation with nonprofit organizations—

"(i) develop standardized performance measures for eligible organizations and providers which are designed to achieve the purposes described in subparagraph (B); and

"(ii) examine the feasibility of using risk adjusters to validate the performance measures developed.

"(B) PURPOSES DESCRIBED.—The purposes described in this subparagraph are as follows:

"(i) To develop a quality report card for medicare beneficiaries that will assist such beneficiaries' decisionmaking regarding health care and treatment by allowing the beneficiaries to compare quality information.

"(ii) To establish performance measures that will assist eligible organizations and providers in providing high quality health care.

"(iii) To provide information to eligible organizations and providers regarding such organizations' and providers' performance and health care processes.

"(C) PERFORMANCE MEASURES DESCRIBED.—The performance measures developed under subparagraph (A) may include the following:

"(i) The number of members of an eligible organization who disenroll from the organization, and to the extent possible, the reasons for such disenrollment.

"(ii) Outcomes of care.

"(iii) Population health status.

"(iv) Appropriateness of care.

"(v) Consumer satisfaction for general and subgroup populations.

"(vi) Access to care, including access to emergency care, waiting time for scheduled appointments, and provider location convenience.

"(vii) Prevention of diseases, disorders, disabilities, injuries, and other health conditions.

"(D) ONGOING BASIS.—Development of performance measures and risk adjusters shall be done on an ongoing basis.

"(2) COLLECTION OF DATA.—

"(A) VALIDITY PREREQUISITE.—The performance measures developed under this subsection shall not be disseminated to eligible organizations and providers before the validity of such performance measures is established.

"(B) COLLECTION SCHEDULE.—Beginning 6 months after the first dissemination of the performance measures to eligible organizations, data regarding specific performance measures shall be collected from the eligible organizations on a regular rotating basis that coincides with data collection requirements for private sector health care systems.

"(C) COMPLIANCE.—Each eligible organization shall disclose performance measure data as requested. The Administrator of the Health Care Financing Administration or an entity designated by the Secretary shall audit eligible organizations for compliance with the data collection requirements and shall enforce any noncompliance in accordance with regulations promulgated by the Secretary.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible organization' means an organization with a contract under part C;

"(2) the term 'medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B; and

"(3) the term 'provider' means hospitals, physicians, nursing homes, and providers of ancillary services to medicare beneficiaries.".

CHAPTER 3—PROVISIONS TO STRENGTHEN RURAL AND UNDER-SERVED AREAS

SEC. 7021. RURAL REFERRAL CENTERS.

(a) PERMANENT GRANDFATHERING OF RURAL REFERRAL CENTER STATUS.—Section 1886(d)(5)(C) (42 U.S.C. 1395ww(d)(5)(C)) is amended by adding at the end the following new clause:

"(iii) Notwithstanding any other provision of law, any hospital that was classified as a rural referral center under clause (i) on September 30, 1991, shall continue to be classified or, as applicable, shall be reclassified, as a rural referral center and such classification or reclassification shall be effective on and after October 1, 1991, with respect to payments under this title.".

(b) GRADUATED AREA WAGE INDEX FOR RURAL REFERRAL CENTERS.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended by adding at the end the following new clauses:

"(iv) Notwithstanding section 412.230(e)(iii) of title 42, Code of Federal Regulations (relating to criteria for use of an area's wage index)—

"(I) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 104 percent and less than 108 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be equal to the sum of—

"(aa) the wage index of the area in which the hospital is located; and

"(bb) 66 percent of the difference between the higher wage index area which the hospital would receive if it was reclassified (if the hospital's average hourly wage was 108 percent or more of the average hourly wage of hospitals in the area in which the hospital is located in accordance with the provisions of section 1886(d)(8)(C)) and the amount determined under item (aa); and

"(II) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 100 percent and less than 104 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be determined under subclause (I) as if the reference to '66 percent' in such subclause were a reference to '33 percent'.

"(v) For purposes of clause (iv), the term 'eligible hospital' means a hospital that is classified as a rural referral center under paragraph (5)(C)(i) that would be reclassified to a higher area wage index if the hospital's average hourly wage was 108 percent or more of the average hourly wage in the area in which the hospital is located and meets all other applicable Federal standards.".

(c) BUDGET NEUTRALITY.—Notwithstanding any other provision of law, for cost reporting periods beginning on or after October 1, 1995, the Secretary of Health and Human Services shall provide for such equal proportional adjustment in payments under section 1886 of the Social Security Act (42 U.S.C. 1395ww) to subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined under such section) as may be necessary to assure that the aggregate payments to such hospitals under such section are not increased or decreased by reason of the amendments made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1995.

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA-93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7025. IMPROVING HEALTH CARE ACCESS AND REDUCING HEALTH CARE COSTS THROUGH TELEMEDICINE.

(a) IN GENERAL.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—

(1) in the title heading by striking out "AND HEALTH PROMOTION" and inserting ", HEALTH PROMOTION AND TELEMEDICINE DEVELOPMENT";

(2) by inserting after the title heading the following:

"PART A—HEALTH INFORMATION AND HEALTH PROMOTION";

and

(3) by adding at the end thereof the following new part:

"PART B—TELEMEDICINE DEVELOPMENT

"SEC. 1711. GRANT PROGRAM FOR PROMOTING THE DEVELOPMENT OF RURAL TELEMEDICINE NETWORKS.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible entities in accordance with this subsection to promote the development of rural telemedicine networks.

"(b) GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.—The Secretary of Health and Human Services, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (d) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to—

"(1) encourage the initial development of rural telemedicine networks;

"(2) expand existing networks;

"(3) link existing networks together; or

"(4) link such networks to existing fiber optic telecommunications systems.

"(c) ELIGIBLE ENTITY DEFINED.—For the purposes of this section the term 'eligible entity' means hospitals and other health care providers operating in a health care network of community-based providers that includes at least three of the following—

"(1) community or migrant health centers;

"(2) local health departments;

"(3) community mental health centers;

"(4) nonprofit hospitals;

"(5) private practice health professionals, including rural health clinics; or

"(6) other publicly funded health or social services agencies.

"(d) APPLICATION.—To be eligible to receive a grant under this section an eligible entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including a description of—

"(1) the need of the entity for the grant;

"(2) the use to which the entity would apply any amounts received under such grant;

"(3) the source and amount of non-Federal funds that the entity will pledge for the project funded under the grant;

"(4) the long-term viability of the project and evidence of the providers commitment to the network.

"(e) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give preference to applicants that—

"(1) are health care providers operating in rural health care networks or that propose to form such networks with the majority of the providers in such networks being located in a medically undeserved area or health professional shortage area;

"(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located; and

"(3) propose to use funds received under the grant to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers;

"(4) will use the amounts provided under the grant for a range of health care applications and to promote greater efficiency in the use of health care resources;

"(5) demonstrate the long term viability of projects through use of local matching funds (in cash or in-kind); and

"(6) demonstrate financial, institutional, and community support and the long range viability of the network.

"(f) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities, including—

"(1) the development and acquisition through lease or purchase of computer hardware and software, audio and visual equipment, computer network equipment, modification or improvements to telecommunications transmission facilities, telecommunications terminal equipments, interactive video equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

"(2) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

"(3) the development and acquisition of instructional programming;

"(4) the development of projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telemedicine;

"(5) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

"(6) the development of projects to use telemedicine to facilitate collaboration between health care providers; and

"(7) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

"(g) PROHIBITED USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall not be used for—

"(1) expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds; or

"(2) expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"(i) DEFINITION.—For the purposes of this section, the term 'rural health care network' means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

"(j) REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.—Not later than July 1, 1996, the Secretary, in consultation with the Office of Rural Health and the Health Care Financing Administration, shall develop and submit to Congress a recommendation on a methodology for determining payments under title XVIII of the Social Security Act for telemedicine services.".

SEC. 7026. ESTABLISHMENT OF RURAL HEALTH OUTREACH GRANT PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART O—RURAL HEALTH OUTREACH GRANTS

"SEC. 399O. RURAL HEALTH OUTREACH GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to demonstrate the effectiveness of outreach to populations in rural areas that do not normally seek or do not have access to health or mental health services. Grants shall be awarded to enhance linkages, integration, and cooperation in order to provide health or mental health services, to enhance services, or increase access to or utilization of health or mental health services.

"(b) MISSION OF THE OUTREACH PROJECTS.—Projects funded under subsection (a) should be designed to facilitate the integration and coordination of services in or among rural communities in order to address the needs of populations living in rural or frontier communities.

"(c) COMPOSITION OF PROGRAM.—

"(1) CONSORTIUM ARRANGEMENT.—To be eligible to participate in the grant program established under subsection (a), an applicant entity shall be a consortium of three or more separate and distinct entities formed to carry out an outreach project under subsection (b).

"(2) CERTAIN REQUIREMENTS.—A consortium under paragraph (1) shall be composed of three or more public or private nonprofit health care or social service providers. Consortium members may include local health departments, community or migrant health centers, community mental health centers, hospitals or private practices, or other publicly funded health or social service agencies.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.".

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(II) by striking "72" and inserting "96";

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (*l*) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(d) PAYMENT CONTINUED TO DESIGNATED EACHs.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect or designated by the State on January 1, 1996" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect or designated by the State on January 1, 1996" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(e) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

"(1) IN GENERAL.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

"(A) REASONABLE COST.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

"(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs. The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) SWING BEDS.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

"(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 7028. PARITY FOR RURAL HOSPITALS FOR DISPROPORTIONATE SHARE PAYMENTS.

(a) DISPROPORTIONATE SHARE ADJUSTMENT PERCENTAGE.—Section 1886(d)(5)(F)(iv) (42 U.S.C. 1395ww(d)(5)(F)(iv)) is amended—

(1) in subclause (I), by inserting "or rural" after "urban",

(2) in subclause (II), by inserting "or rural" after "urban",

(3) by striking subclause (III) and redesignating subclauses (IV), (V), and (VI), as subclauses (III), (IV), and (V), respectively,

(4) in subclause (III), as redesignated, by striking "10 percent" and inserting "15 percent",

(5) in subclause (IV), as redesignated, to read as follows:

"(IV) is located in a rural area, is classified as a rural referral center under subparagraph (C), is not classified as a sole community hospital under subparagraph (D) and—

"(aa) has 100 or more beds, is equal to the percent determined in accordance with the applicable formula described in clause (vii), or

"(bb) has less than 100 beds, is equal to 5 percent; or", and

(6) in subclause (V), as redesignated, by striking "10 percent" and inserting "15 percent".

(b) SERVES A SIGNIFICANTLY DISPROPORTIONATE NUMBER OF LOW-INCOME PATIENTS.—Section 1886(d)(5)(F)(v) (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by striking subclauses (II) through (IV) and inserting the following subclauses:

"(II) 20 percent, if the hospital is located in a rural area and has 100 or more beds,

"(III) 40 percent, if the hospital is located in a rural area and has less than 100 beds,

"(IV) 20 percent, if the hospital is located in a rural area and is classified as a sole community hospital under subparagraph (D),

"(V) 15 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has 100 or more beds, or

"(VI) 40 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has less than 100 beds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

CHAPTER 4—GENERAL PROGRAM IMPROVEMENTS AND REFORM

SEC. 7031. INCREASED FLEXIBILITY IN CONTRACTING FOR MEDICARE CLAIMS PROCESSING.

(a) CARRIERS TO INCLUDE ENTITIES THAT ARE NOT INSURANCE COMPANIES.—

(1) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking "with carriers" and inserting "with agencies and organizations (hereafter in this section referred to as 'carriers')".

(2) Section 1842(f) (42 U.S.C. 1395u(f)) is repealed.

(b) CHOICE OF FISCAL INTERMEDIARIES BY PROVIDERS OF SERVICES; SECRETARIAL FLEXIBILITY IN ASSIGNING FUNCTIONS TO INTERMEDIARIES AND CARRIERS.—

(1) Section 1816(a) (42 U.S.C. 1395h(a)) to read as follows:

"(a)(1) The Secretary may enter into contracts with agencies or organizations to perform any or all of the following functions, or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other organizations):

"(A) Determination (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this part to be made to providers of services.

"(B) Making payments described in subparagraph (A).

"(C) Provision of consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as providers of services.

"(D) Serving as a center for, and communicate to individuals entitled to benefits under this part and to providers of services, any information or instructions furnished to the agency or organization by the Secretary, and serve as a channel of communication from individuals entitled to benefits under this part and from providers of services to the Secretary.

"(E) Making such audits of the records of providers of services as may be necessary to ensure that proper payments are made under this part.

"(F) Performance of the functions described under subsection (d).

"(G) Performance of such other functions as are necessary to carry out the purposes of this part.

"(2) As used in this title and title XI, the term 'fiscal intermediary' means an agency or organization with a contract under this section.".

(2) Subsections (d) and (e) of section 1816 (42 U.S.C. 1395h) are amended to read as follows:

"(d) Each provider of services shall have a fiscal intermediary that—

"(1) acts as a single point of contact for the provider of services under this part,

"(2) makes its services sufficiently available to meet the needs of the provider of services, and

"(3) is responsible and accountable for arranging the resolution of issues raised under this part by the provider of services.

"(e)(1)(A) The Secretary shall, at least every 5 years, permit each provider of services (other than a home health agency or a hospice program) to choose an agency or organization (from at least 3 proposed by the Secretary, of which at least 1 shall have an office in the geographic area of the provider of services, except as provided by subparagraph (B)(ii)(II)) as the fiscal intermediary under subsection (d) for that provider of services. If a contract with that fiscal intermediary is discontinued, the Secretary shall permit the provider of services to choose under the same conditions from 3 other agencies or organizations.

"(B)(i) The Secretary, in carrying out subparagraph (A), shall permit a group of hospitals (or a group of another class of providers other than home health agencies or hospice programs) under common ownership by,

or control of, a particular entity to choose one agency or organization (from at least 3 proposed by the Secretary) as the fiscal intermediary under subsection (d) for all the providers in that group if the conditions specified in clause (ii) are met.

"(ii) The conditions specified in this clause are that—

"(I) the group includes all the providers of services of that class that are under common ownership by, or control of, that particular entity, and

"(II) all the providers of services in that group agree that none of the agencies or organizations proposed by the Secretary is required to have an office in any particular geographic area.

"(2) The Secretary, in evaluating the performance of a fiscal intermediary, shall solicit comments from providers of services.".

(3)(A) Section 1816(b)(1)(A) (42 U.S.C. 1395h(b)(1)(A)) is amended by striking "after applying the standards, criteria, and procedures" and inserting "after evaluating the ability of the agency or organization to fulfill the contract performance requirements".

(B) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(i) by striking "develop standards, criteria, and procedures" and inserting ", after public notice and opportunity for comment, develop contract performance requirements", and

(ii) by striking ", and the Secretary shall establish standards and criteria with respect to the efficient and effective administration of this part".

(C) The second sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended to read as follows: "The Secretary shall, after public notice and opportunity for comment, develop contract performance requirements for the efficient and effective performance of contract obligations under this section.".

(D) Section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking the third sentence.

(E) Section 1842(b)(2)(B) (42 U.S.C. 1395u(b)(2)(B)) is amended in the matter preceding clause (i) by striking "establish standards" and inserting "develop contract performance requirements".

(F) Section 1842(b)(2)(D) (42 U.S.C. 1395u(b)(2)(D)) is amended by striking "standards and criteria" each place it appears and inserting "contract performance requirements".

(4)(A) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) by striking "an agreement" and inserting "a contract".

(B) Paragraphs (1)(B) and (2)(A) of section 1816(b) (42 U.S.C. 1395h(b)) are each amended by striking "agreement" and inserting "contract".

(C) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "An agreement" and inserting "A contract".

(D) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "an agreement" and inserting "a contract".

(E) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by striking "agreement" and inserting "contract".

(F) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by striking "agreement" and inserting "contract".

(G) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking "an agreement" and inserting "a contract".

(H) Section 1816(h) (42 U.S.C. 1395h(h)) is amended—

(i) by striking "An agreement" and inserting "A contract", and

(ii) by striking "the agreement" each place it appears and inserting "the contract".

(I) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1)) is amended by striking "an agreement" and inserting "a contract".

(J) Section 1816(j) (42 U.S.C. 1395h(j)) is amended by striking "An agreement" and inserting "A contract".

(K) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by striking "An agreement" and inserting "A contract".

(L) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) is amended by striking "agreements" and inserting "contracts".

(M) Section 1842(h)(3)(A) (42 U.S.C. 1395u(h)(3)(A)) is amended by striking "an agreement" and inserting "a contract".

(5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking the second sentence.

(6)(A) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by inserting "that provides for making payments under this part" after "this section".

(B) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by inserting "that provides for making payments under this part" after "this section".

(C) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by inserting "(as appropriate)" after "submit".

(D) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking "some or all of the following functions" and inserting "any or all of the following functions, or parts of those functions".

(E) The first sentence of section 1842(b)(2)(C) (42 U.S.C. 1395u(b)(2)(C)) is amended by inserting "(as appropriate)" after "carriers".

(F) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended in the matter preceding subparagraph (A) by inserting "(as appropriate)" after "contract".

(G) Section 1842(b)(7)(A) (42 U.S.C. 1395u(b)(7)(A)) is amended in the matter preceding clause (i) by striking "the carrier" and inserting "a carrier".

(H) Section 1842(b)(11)(A) (42 U.S.C. 1395u(b)(11)(A)) is amended in the matter preceding clause (i) by inserting "(as appropriate)" after "each carrier".

(I) Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended in the first sentence by inserting "(as appropriate)" after "shall".

(J) Section 1842(h)(5)(A) (42 U.S.C. 1395u(h)(5)(A)) is amended by inserting "(as appropriate)" after "carriers".

(7)(A) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "hospital, rural primary care hospital, skilled nursing facility, home health agency, hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency" and inserting "provider of services".

(B) Section 1816(j) (42 U.S.C. 1395h(j)) is amended in the matter preceding paragraph (1) by striking "for home health services, extended care services, or post-hospital extended care services".

(8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3)) is amended by inserting "(to and from individuals enrolled under this part and to and from physicians and other entities that furnish items and services)" after "communication".

(c) ELIMINATION OF SPECIAL PROVISIONS FOR TERMINATIONS OF CONTRACTS.—

(1) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) is amended by striking "or renew".

(2) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "or renewing".

(3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(A) by striking ", renew, or terminate", and

(B) by striking ", whether the Secretary should assign or reassign a provider of services to an agency or organization,".

(4) Section 1816(g) (42 U.S.C. 1395h(g)) is repealed.

(5) The last sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking "or renewing".

(6) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (5).

(d) REPEAL OF FISCAL INTERMEDIARY REQUIREMENTS THAT ARE NOT COST-EFFECTIVE.—Section 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read as follows:

"(2) The contract performance requirements developed under paragraph (1) shall include, with respect to claims for services furnished under this part by any provider of services other than a hospital, whether such agency or organization is able to process 75 percent of reconsiderations within 60 days and 90 percent of reconsiderations within 90 days.".

(e) REPEAL OF COST REIMBURSEMENT REQUIREMENTS.—

(1) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended—

(A) by striking the comma after "appropriate" and inserting "and", and

(B) by striking "subsection (a)"and all that follows through the period and inserting "subsection (a).".

(2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is further amended by striking the second and third sentences.

(3) The first sentence of section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) by striking "shall provide" the first place it appears and inserting "may provide", and

(B) by striking "this part" and all that follows through the period and inserting "this part.".

(4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is further amended by striking the second and third sentences.

(5) Section 2326(a) of the Deficit Reduction Act of 1984 is repealed.

(f) COMPETITION REQUIRED FOR NEW CONTRACTS AND IN CASES OF POOR PERFORMANCE.—

(1) Section 1816(c) (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(4)(A) A contract with a fiscal intermediary under this section may be renewed from term to term without regard to any provision of law requiring competition if the fiscal intermediary has met or exceeded the performance requirements established in the current contract.

"(B) Functions may be transferred among fiscal intermediaries without regard to any provision of law requiring competition.".

(2) Section 1842(b)(1) (42 U.S.C. 1395u(b)(1)) is amended to read as follows:

"(b)(1)(A) A contract with a carrier under subsection (a) may be renewed from term to term without regard to any provision of law requiring competition if the carrier has met or exceeded the performance requirements established in the current contract.

"(B) Functions may be transferred among carriers without regard to any provision of law requiring competition.".

(g) WAIVER OF COMPETITIVE REQUIREMENTS FOR INITIAL CONTRACTS.—

(1) Contracts that have periods that begin during the 1-year period that begins on the first day of the fourth calendar month that begins after the date of enactment of this Act may be entered into under section 1816(a) of the Social Security Act (42 U.S.C. 1395h(a)) without regard to any provision of law requiring competition.

(2) The amendments made by subsection (f) apply to contracts that have periods beginning after the end of the 1-year period specified in paragraph (1).

(h) EFFECTIVE DATES.—

(1) The amendments made by subsection (c) apply to contracts that have periods ending on, or after, the end of the third calendar month that begins after the date of enactment of this Act.

(2) The amendments made by subsections (a), (b), (d), and (e) apply to contracts that have periods beginning after the third calendar month that begins after the date of enactment of this Act.

SEC. 7032. EXPANSION OF CENTERS OF EXCELLENCE.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall use a competitive process to contract with centers of excellence for cataract surgery and coronary artery bypass surgery, and any other appropriate services designated by the Secretary. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1996.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the contract shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the contract not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(b) REBATE OF PORTION OF SAVINGS.—In the case of any services provided under a contract conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the contract, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

(c) INFORMATION.—The Secretary shall include in the annual notice mailed under section 1804 of the Social Security Act (42 U.S.C. 1395b-2) information regarding the availability of centers of excellence under this section and notification that an individual may be directed to local centers of excellence by calling the toll-free number established under subsection (b) of such section.

SEC. 7033. SELECTIVE CONTRACTING.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") may selectively contract with specialized programs that manage chronic diseases, complex acute care needs, and the needs of disabled medicare beneficiaries. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts subject to such contracts on the basis of negotiated rates. The Secretary shall ensure that such contracts do not limit access to services in rural and undesirable areas.

(b) BASIS OF CONTRACTS.—The Secretary shall enter into contracts under subsection (a) on the basis of objective measures of quality, service, and cost.

(c) INNOVATIONS.—A specialized program with a contract under this section may use alternatives to inpatient or institutional care and may use specialized networks of caregivers.

(d) NO REQUIREMENT TO OBTAIN SERVICES FROM PROGRAMS.—No medicare beneficiary shall be required to receive health care services from a specialized program with a contract under this section.

CHAPTER 5—REDUCTION OF WASTE, FRAUD, AND ABUSE

Subchapter A—Improving Coordination, Communication, and Enforcement

PART I—MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

SEC. 7041. MEDICARE ANTI-FRAUD AND ABUSE PROGRAM.

(a) FINDINGS AND STATEMENT OF PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) a significant amount of funds expended on the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are lost to fraud, medically unnecessary services, and other abuse;

(B) the Office of Inspector General of the Department of Health and Human Services (hereinafter referred to as the Inspector General) and the Attorney General is effective in combating fraud and abuse under the medicare program and returning misspent funds to the Federal Treasury at a rate many times the amount invested in Inspector General and Attorney General activities; and

(C) the investigations, audits, and other activities of the Inspector General and the Attorney General have been severely curtailed by budget constraints, particularly the limits imposed by the ceilings on discretionary spending.

(2) PURPOSE.—It is the purpose of this Act to ensure a continued and adequate source of funding for the medicare anti-fraud and abuse activities of the Inspector General and the Attorney General.

(b) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

SEC. . FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means

a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7042. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

"(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

"(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted

to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(h) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7043. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a-7a and 1320a-7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7044. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) RECOGNITION AND PUBLICATION OF CONTRIBUTIONS.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7051. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7052. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7053. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7054. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7055. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a–7(b)(6)(A)) is amended—

(1) by inserting "(as specified by the Secretary in regulations)" after "substantially in excess of such individual's or entity's usual charges"; and

(2) striking "(or, in applicable cases, substantially in excess of such individual's or entity's costs)" and inserting ", costs or fees".

SEC. 7056. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 7057. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7058. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7061. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code

of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 7062. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

SEC. 7063. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

PART IV—CIVIL MONETARY PENALTIES

SEC. 7071. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such

amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Improvement and Solvency Protection Act of 1995 (as estimated by the Secretary) shall be deposited into the general fund of the Treasury.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7081. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 7082. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

SEC. 7083. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7084. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7085. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 7086. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 7087. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 7088. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7089. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such

person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7091. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7101. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7102. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7103. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7104. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7105. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7111. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7112. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (30 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

SEC. 7113. INTERIM REDUCTION IN EXCESSIVE PAYMENTS.

Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by adding at the end the following new sentence: "With respect to services described in section 1847(c) furnished between January 1, 1996, and the date on which competitive acquisition under section 1847 is fully implemented, the Secretary shall reduce the payment amount applied for such services by 10 percent, except that with respect to oxygen and oxygen equipment items, the Secretary shall reduce the payment amount applied for such items by 20 percent.".

SEC. 7114. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 7115. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 7116. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7121. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as "ADPE") meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7122. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7123. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7124. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7121.

SEC. 7125. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7131. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

"(A) the actual charges for the services; or

"(B) the amount determined by a fee schedule developed by the Secretary.

"(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

"(3) SEPARATE PAYMENT LEVELS.—

"(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

"(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

"(4) ANNUAL ADJUSTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee schedules shall be adjusted annually (to become effective on January 1 of each year) by a percentage increase or decrease equal to the percentage increase or decrease in the consumer price index for all urban consumers (United States city average).

"(B) SPECIAL RULE.—Notwithstanding subparagraph (B), the annual adjustment in the fee schedules determined under such subparagraph for each of the years 1996 through 2002 shall be such consumer price index for the year minus 1 percentage point.

"(5) FURTHER ADJUSTMENTS.—The Secretary shall adjust the fee schedule to the extent necessary to ensure that the fee schedule takes into consideration the costs incurred in providing the transportation and associated services as well as technological changes.

"(6) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

"(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

"(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

"(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7141. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. . INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the

organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

CHAPTER 6—ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY.

SEC. 7161. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) 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.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance, and

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would restructure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term "medicare trust funds" means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7163. POWERS OF THE COMMISSION.

(a) 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 Act.

(b) 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 Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) 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.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—All members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government 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, to the extent funds are available therefor.

(b) STAFF.—

(1) 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. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) 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.

(c) 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.

(d) 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.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

CHAPTER 7—MEASURES TO IMPROVE THE SOLVENCY OF THE TRUST FUNDS

Subchapter A—Provisions Relating to Part A

PART I—GENERAL PROVISIONS

SEC. 7171. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XII) and (XIII) and inserting the following new subclauses:

"(XII) for fiscal year 1997 through 2002, the market basket percentage increase minus 1.0

percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 7172. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.

(a) INDIRECT COSTS OF MEDICAL EDUCATION; APPLICABLE PERCENTAGE.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89; and

"(II) October 1, 1995, 'c' is equal to 1.48.

(2) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 7172(a)(1) of the Medicare Improvement and Solvency Protection Act of 1995".

(b) LIMITATION ON NUMBER OF RESIDENTS.—

(1) DIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) with respect to the program as of August 1, 1995. This subparagraph does not apply to any nonphysician postgraduate training program that, under paragraph (5)(A), is an approved medical residency training program.".

(2) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) in clause (ii), by striking "to beds" and inserting "to beds (subject to clause (v))"; and

(B) by adding at the end the following new clauses:

"(v) For purposes of this subparagraph, as of July 1, 1996, "r" may not exceed the ratio of the number of interns and residents as determined under section 1886(h)(4) with respect to the hospital as of August 1, 1995, to the hospital's number of usable beds as of August 1, 1995.

"(vi) In determining such adjustment with respect to discharges of a hospital occurring on or after October 1, 1995, and on or before September 30, 2002, the number of interns and residents determined under clause (ii) with respect to a hospital may not exceed a number determined by the Secretary by applying rules similar to the rules of subsection (h)(4)(F).".

SEC. 7173. ELIMINATION OF DSH AND IME FOR OUTLIERS.

(a) INDIRECT MEDICAL EDUCATION ADJUSTMENTS.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by striking "and the amount paid to the hospital under subparagraph (A)".

(b) DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by striking "and the amount paid to the hospital under subparagraph (A) for that discharge".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 1995.

SEC. 7174. CAPITAL PAYMENTS FOR PPS INPATIENT HOSPITALS.

Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by—

(1) by striking "through 1995" and inserting "through 2002"; and

(2) by inserting after "reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

SEC. 7175. TREATMENT OF PPS-EXEMPT HOSPITALS.

(a) REBASING FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended to read as follows:

"(A)(i) Subject to clause (ii), and except as provided in subparagraphs (C), (D), and (E), for purposes of this subsection, the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 most recent 12-month cost reporting periods beginning on or after October 1, 1990, increased in a compounded manner by the applicable percentage increases determined under subparagraph (B)(ii) for the hospital's succeeding cost reporting periods through fiscal year 1996; or

"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

"(ii) Notwithstanding subsection (a), in the case of a hospital (or unit) that did not have a cost reporting period beginning on or before October 1, 1990—

"(I) with respect to cost reporting periods beginning during the hospital's first fiscal year of operation, the amount of payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in subsection (a)(4)) shall be the reasonable costs for providing such services, except that such amount may not exceed 150 percent of the national average allowable operating costs of inpatient hospital services for a hospital (or unit) of the same grouping as such hospital for the hospital's first fiscal year of operation;

"(II) with respect to cost reporting periods beginning during the hospital's second fiscal year of operation, the amount determined under subclause (I), increased by the market basket percentage increase for such year (determined under subparagraph (B)(iii); and

"(III) with respect to succeeding cost reporting periods, clause (i) shall apply to such hospital except that the 'target amount' for such hospital shall be the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 12-month cost reporting periods beginning 1 year after the hospital accepts its first patient.".

(b) NON-PPS HOSPITAL PAYMENT UPDATE.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking "1997" and inserting "1995"; and

(B) by striking "and" at the end; and

(2) by striking subclause (VI) and inserting the following subclauses:

"(VI) for fiscal year 1996, the market basket percentage increase minus 2 percentage points for hospitals located in all areas,

"(VII) for fiscal years 1997 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

"(IX) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(c) EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking the first sentence and inserting the following: "The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under his subsection for determining the amount of payment to a hospital with respect to the hospital's 12-month cost reporting period beginning in a fiscal year where the hospital's allowable operating costs of inpatient hospital services recognized under this title for the hospital's 12-month cost reporting period beginning in the preceding fiscal year, exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period by at least 50 percent.".

(d) ELIMINATION OF INCENTIVE PAYMENTS.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended to read as follows:

"(b)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813 and paragraph (2), if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital (other than a subsection (d) hospital, as defined in subsection (d)(1)(B)) for a cost reporting period subject to this paragraph are greater than the target amount by at least 10 percent, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the sum of—

"(i) the target amount, plus

"(ii) an additional amount equal to 50 percent of the amount by which the operating costs exceed 110 percent of the target amount (except that such additional amount may not exceed 20 percent of the target amount) after any exceptions or adjustments are made to such target amount for the cost reporting period.

"(B) In no case may the amount payable under this title (other than on the basis of a DRG prospective payment rate determined under subsection (d)) with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).".

(e) FLOORS AND CEILINGS FOR TARGET AMOUNTS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)), as amended by subsection (a), is amended by adding at the end the following new clauses:

"(ii) Notwithstanding clause (i), in the case of a hospital (or unit thereof)—

"(I) the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 70 percent

of the national mean (weighted by caseload) of the target amounts determined under this paragraph for all hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) such target amount may not be greater than 130 percent of the national mean (weighted by caseload) of the target amounts for such hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year.".

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

SEC. 7176. PPS-EXEMPT CAPITAL PAYMENTS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2005 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 7177. PROHIBITION OF PPS EXEMPTION FOR NEW LONG-TERM HOSPITALS.

Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking "25 days" and inserting "25 days and which received payment under this section on or before November 30, 1995".

SEC. 7178. REVISION OF DEFINITION OF TRANSFERS FROM HOSPITALS TO POST-ACUTE FACILITIES.

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) Effective for discharges occurring on or after October 1, 1995, transfer cases (as otherwise defined by the Secretary) shall also include cases in which a patient is transferred from a subsection (d) hospital to a hospital or hospital unit that is not a subsection (d) hospital (under section 1886(d)(1)(B)) or to a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7179. DIRECTION OF SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

"(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the provisions of and amendments made by the Medicare Improvement and Solvency Protection Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt obligations issued exclusively to the Federal Hospital Insurance Trust Fund.".

PART II—SKILLED NURSING FACILITIES

SEC. 7181. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsections:

"(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

"(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

"(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

"(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits:

"(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

"(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

"(C) With respect a skilled nursing facility that does not have a base year (determined by the Secretary under subparagraph (A) or (B)), the limit for such facility for cost reporting periods (or portions of cost reporting periods) beginning prior to October 1, 1998, shall be equal to 100 percent of the mean costs of freestanding skilled nursing facilities located in rural or urban areas (as applicable).

For purposes of this paragraph, the terms 'urban', 'rural', and 'region' have the meaning given such terms in section 1886(d)(2)(D).

"(4)(A) Subject to subparagraph (B), the Secretary may not make adjustments or exceptions to the limits determined under paragraph (3).

"(B) For periods prior to October 1, 1998, a facility's payment for routine costs shall be the greater of—

"(i) the facility's limit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(ii) the regional limit determined under this paragraph (3) (including any exception amounts that were in effect in the base year), updated in accordance with paragraph (2).

"(C) The Secretary shall not provide for new provider exemptions under this subsection under section 413.30(e)(2) of title 42 of the Code of Federal Regulations and shall not include such exemption amounts determined in the base year for purposes of subparagraph (B)(ii).

"(1) In the case of a skilled nursing facility which received an adjustment to the facility's limit in the base year (determined by the Secretary under paragraph (3)), the facility shall receive an adjustment to the limit determined under paragraph (3) for a fiscal year if the magnitude and scope of the case mix or circumstances resulting in the base year adjustment are at least as great for such fiscal year.

"(g)(1) In the case of a hospital-based skilled nursing facility receiving payments under this title as of the date of enactment of this subsection, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this subsection.

"(2) In the case of a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this subsection, such facility may elect, in lieu of payment otherwise determined under this section for routine service costs, to receive payments under this section in an amount equal to a rate equal to 100 percent of the mean routine service costs of free standing skilled nursing facilities by rural or urban area, as applicable.

"(h) The Secretary shall, for cost reporting periods beginning on or after October 1, 1996, and before the prospective payment system is established under subsection (i), the Secretary shall not provide for payment for ancillary costs of extended care services in accordance with section 1861(v) in excess of the amount that would be paid under the fee schedules applicable to such services under sections 1834 and 1848.

"(i)(1) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary.

"(2)(A) Prior to implementing the prospective system described in paragraph (1) in a budget-neutral fashion, the Secretary shall reduce by 5 percent the per diem rates for routine costs, and the cost limits for ancillary services and capital for skilled nursing facilities as such rates and costs are in effect on September 30, 1998.

"(B) Subject to the reduction under subparagraph (B), the Secretary shall establish the prospective payment system described in paragraph (1) such that aggregate payments under such system for a fiscal year shall not exceed the payments that would have otherwise been made for such fiscal year.

"(j) Each skilled nursing facility shall be required to include uniform coding (including HCPCS codes, if applicable) on the facility's cost reports".

SEC. 7182. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

SEC. 7183. CONSOLIDATED BILLING.

(a) REQUIREMENT OF ARRANGEMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting the following:

"(16) which are other than physicians' services, services described by clauses (i) or (ii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist, and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility.".

(b) AGREEMENTS WITH PROVIDERS OF SERVICES.—Section 1866(a)(1)(H) (42 U.S.c. 1395cc(a)(1)(H)) is amended—

(1) by redesignating clauses (i) and (ii), as subclauses (I) and (II), respectively;

(2) by inserting "(i)" after "(H)"; and

(3) by adding at the end the following new clause:

"(ii) in the case of skilled nursing facilities which provide services for which payment may be made under this title, to have all items and services (other than physicians services, and other than services described by sections 1861(s)(2)(K) (i) or (ii), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title, furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

Subchapter B—Provisions Relating to Part B

SEC. 7184. PHYSICIAN UPDATE FOR 1996.

(a) SPECIAL RULE FOR 1996.—Section 1848(d)(3) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—In determining the update under subparagraphs (A) and (B) for 1996, the Secretary shall use the same percentage increase for all categories of service, determined in a budget-neutral manner, weighting the percentage increase for each of the 3 categories of service by the category's respective share of expenditures. The update determined in the previous sentence shall be reduced by 0.8 percentage points for all physicians' services, except for primary care services (as defined in section 1842(i)(4)".

SEC. 7185. PRACTICE EXPENSE RELATIVE VALUE UNITS.

(a) EXTENSION TO 1997.—Section 1848(c)(2)(E) is amended—

(1) by striking "and" at the end of clause (i)(II),

(2) by striking the period at the end of clause (i)(III) and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) 1997, by an additional 25 percent of such excess."

(b) CHANGE IN FLOOR ON REDUCTIONS AND SERVICES COVERED.—Clauses (ii) and (iii)(II) of section 1848(c)(2)(E) are amended by inserting "(or 115 percent in the case of 1997)" after "128 percent".

SEC. 7186. CORRECTION OF MVPS UPWARD BIAS.

(a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by striking "including changes in law and regulations affecting the percentage increase described in clause (i)" and inserting "excluding anticipated responses to such changes".

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in the heading by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (II), by striking "and"; and

(4) in subclause (III), by striking "any succeeding year" and inserting "1995, 1996, and 1997".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to performance standard rates of increase determined for fiscal year 1996 and succeeding fiscal years.

SEC. 7187. LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII, is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS

"SEC. 1849. (a) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (b)(2) for the following year; and

"(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (b)(1).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (c)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff under paragraph (1).

"(b) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year, shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second calendar year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year; and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(c) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (a) during a year shall be reduced 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (a)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(d) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with

1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (b)(2)(C)). Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(A) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (c), including interest at an appropriate rate determined by the Secretary;

"(B) if the actual average per admission relative value for such hospital's medical staff during the year is less than 15 percentage points above the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total allowed charges for physicians' services performed in such hospital (prior to the withhold), the difference between 15 percentage points and the actual number of percentage points that the staff exceeds the limit allowable average per admission relative value, including interest at an appropriate rate determined by the Secretary; and

"(C) if the actual average per admission relative value for such hospital's medical staff during the year exceeded the allowable average per admission relative value applicable to the hospital's medical staff by 15 percentage points or more, none of the withhold is paid to the fiduciary agent for the medical staff.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have one year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate withhold amount made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(B) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

"(2) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(3) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 7188. ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY.

(a) GENERAL RULE.—

(1) Part B of title XVIII is amended by inserting after section 1846 the following section:

"ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY

"SEC. 1847. (a) IN GENERAL.—Payment under this part for surgical services (as defined by the Secretary under section 1848(j)(1)), when a separate payment is also made for the services of a physician or physician assistant acting as an assistant at surgery, may not (except as provided by subsection (b)), when added to the separate payment made for the services of that other practitioner, exceed the amount that would be paid for the surgical services if a separate payment were not made for the services of that other practitioner.

"(b) ESTABLISHMENT OF EXCEPTIONS.—The Secretary may specify surgery procedures or situations to which subsection (a) shall not apply.".

(2) Section 1848(g)(2)(D) is amended by inserting "(or the lower amount determined under section 1847)" after "subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to services furnished after calendar year 1995.

SEC. 7189. UPGRADED DURABLE MEDICAL EQUIPMENT.

Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i). In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

Subchapter C—Provisions Relating to Parts A and B

PART I—SECONDARY PAYOR

SEC. 7189A. EXTENSION AND EXPANSION OF EXISTING MEDICARE SECONDARY PAYOR REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "and before October 1, 1998".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(2) by striking the second sentence.

PART II—HOME HEALTH AGENCIES

SEC. 7189B. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting "and before October 1, 1996," after "July 1, 1987" in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "July 1, 1996" and inserting "October 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including nonroutine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of medicare patients for the year subject to the limitation. The limitation shall represent total medicare reasonable costs divided by the unduplicated census count of medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency-specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) SUBMISSION OF DATA FOR CASE-MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1998, the Secretary shall require all home health agencies to submit such additional information as the Secretary may deem necessary for the development of a reliable case-mix adjuster.

SEC. 7189C. PROSPECTIVE PAYMENTS.

Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) All services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode, the use of services, and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(2) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(3) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(4) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(5) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be prorated between home health agencies.".

"(c) Prior to implementing the prospective system described in subsections (a) and (b) in a budget-neutral fashion, the Secretary shall first reduce, by 15 percent, the cost limits, per beneficiary limits, and actual costs, described in section 1861(v)(1)(L)(iv), as such limits are in effect on September 30, 1999.".

SEC. 7189D. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7189E. ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.

(a) IN GENERAL.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C);

(2) by striking subparagraph (D); and

(3) by redesignating subparagraph (E) as subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made on or after October 1, 1999.

SEC. 7189F. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this subtitle shall apply to items and services provided on or after October 1, 1995.

Amend the table of contents for title VII accordingly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, the purpose of this amendment is to restore the solvency of the Medicare part A trust fund for the next 10 years and then to go on, beyond dealing with that immediate, obvious deficit looming, to reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plan options available, providing better information so that beneficiaries can act as informed consumers, and to require planning and action for the changes that will come with the retirement, later in the first decade of the next century, of the baby-boom generation.

This is a constructive Medicare alternative.

Mr. President, what we have here is a missed opportunity. Democrats and Republicans agree generally that there are some problems with the Medicare Program that we must address:

Problem No. 1. Our Republican colleagues argue that the Medicare Program must be saved from impending bankruptcy in the part A trust fund. Democrats agree that we must act to restore the solvency of the part A trust fund. The Health Care Financing Administration's Actuary tells us that it will take $89 billion in spending reductions to assure solvency through the next 10 years—through 2006. Democrats have put forward a strong proposal that would do this in a fair manner. It has been scored by CBO and achieves solvency for at least the next 10 years.

Problem No. 2. The rate of increase in the cost of the Medicare Program is unsustainable at 10 percent each and every year. We all agree that this problem must be dealt with. Democrats and Republicans have both put forward proposals that begin to bring competitive market forces into the Medicare Program. I would argue that the Democratic proposal is much stronger in this regard. We would strongly move the Medicare Program toward competitive bidding among the private health plans participating in Medicare. We would also tie rates of increase in payments to private health plans to the private sector market place, rather than to arbitrary budget targets. Ultimately, I am convinced that competition among an expanded range of private health plans serving Medicare patients will be the key to reducing long term rates of growth in the Medicare Program.

We recognize that the Medicare Program is 30 years old and is showing signs of its age. We have proposed changes that would bring the program into the rapidly changing health care system of the 1990's and the next century.

Problem No. 3. The most difficult problem looming on the horizon, Mr. President, is the coming retirement of the baby boom generation—a relatively huge number of Americans will begin to turn 65 starting around the year 2010. There are 76 million individuals in the baby boom generation. They outnumber by 50 percent the generation that preceded them into retirement. Over the next 5 years, only about 10 percent of Medicare cost increases will be attributable to more beneficiaries. Once the baby boomers retire, however, the combination of, one, a declining base of workers and, two, longer lifespans will double the combined costs of Medicare and Medicaid even if medical inflation, above CPI is eliminated altogether.

If Medicare is not prepared for the implications of this demographic shift, it may not be able to weather the storm. Democrats and Republicans have both put forward Medicare reform plans that would set up a high level, bipartisan commission to make the tough recommendations that are needed to prepare for this historical shift.

The differences between the parties, nevertheless, remain stark. The bill that is on the Senate floor today would cut $280 billion out of the Medicare Program over the next 7 years. The problem, Mr. President, is that this figure is based solely on a series of budget targets that lead to a balanced budget and reductions in taxes of $254 billion over the next 7 years.

The reconciliation bill before us is too long on squeezing beneficiaries and too short on genuine reform. It treats Medicare as a cash cow to be milked to keep promises of deficit and tax reduction made in the campaigns of 1994.

The figure of $280 billion in Medicare cuts is not good for the Medicare Program and the population it serves—those who depend on it today and those who will depend on it in future generations.

In the end, Mr. President, I am convinced that we can find a solution to all of these problems. What we have on the Senate floor today, however, is not the solution. It maintains all of the problems of the existing Medicare Program and underfunds them. It is a package of cuts, not reforms.

Mr. President, I ask unanimous consent to have a Democratic Medicare plan printed in the RECORD.

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

A DEMOCRATIC MEDICARE PLAN FOR THE 21ST CENTURY

Since Democrats created Medicare thirty years ago over GOP opposition, protecting this program has been a top Democratic priority. Today, as Republicans propose the largest cuts in Medicare's history—cuts made in the name of "saving" Medicare—Democrats once again are coming to Medicare's defense.

Our proposal: To ensure that Medicare remains solvent and strong by implementing reforms that strengthen and improve the program.

Our position: That the GOP Medicare plan cuts Medicare three times more than is necessary to restore Trust Fund solvency—and raids Medicare to pay for their scheme of tax breaks for the wealthiest.

Rejecting the Republican plan is not enough. Democrats will offer a proposal which:

Preserves seniors' right to keep their own doctor while giving them more choices of private health plans that provide high-quality and comprehensive benefits;

Improves Medicare's traditional fee-for-service program by making it more efficient and responsive to beneficiary needs, without imposing unnecessary and unfair increases in out-of-pocket Medicare expenses;

Tackles Medicare waste, fraud and abuse through programs applauded by law enforcement officials; and

Guarantees solvency of the Medicare Trust Fund through the year 2006 and prepares for the long-run challenge of the baby boom generation that will begin to retire in 2010.

The GOP claims we must cut $270 billion in order to save Medicare. That's just not true. According to the Health Care Financing Administration's Chief Actuary—who produced the estimates relied upon by the Medicare trustees—only $89 billion in cost reductions are needed to extend the life of the trust fund through the fourth quarter of the calendar year 2006.

In this proposal, we show that we can preserve and protect Medicare without slashing needed services for the elderly or increasing their out-of-pocket costs. Our plan places no new burdens on seniors—and our hospital cuts are half the Republicans'.

SUMMARY OF DEMOCRATIC PROPOSAL TO ENSURE SOLVENCY

I. Providing real choices

Medicare beneficiaries currently may choose from only two options—the traditional fee-for-service program and health maintenance organizations. Since 19 states have no Medicare HMOs, seniors in many states have no choice at all. This plan would ensure beneficiaries have access to a wide variety of health plans. Specific reforms include the following:

Expand private health plan choices: Medicare's current options would be expanded to allow the participation of preferred provider organizations, point-of-service plans, and provider sponsored networks. Plans would offer a basic benefit package equal to the fee-for-service plan with additional preventive services and lower cost-sharing.

Preserve a vital and affordable fee-for-service option: The GOP's $270 billion in cuts will spell disaster for hospitals and other health care providers all across the country, particularly in rural and underserved areas. The Democratic plan protects and improves fee-for-service Medicare—so seniors will continue to have a real choice. It keeps premiums affordable, saving seniors hundreds of dollars a year.

Reform payments to private health plans: Medicare would pay HMOs and other health plans a rate which would increase at the cost of other private health plans, unlike the GOP plan which arbitrarily caps payments at 4.3% and the current outmoded system which ties payments to fee-for-service costs. The Democratic plan would also require Medicare to test and recommend options to Congress on ways to pay private health plans through a market-based competitive bidding process.

Provide information on health plan options: Medicare would provide to all beneficiaries information comparing plans available in their region. The comparative plan information would be in a standardized format, in language that is easily understood. Such information would be provided to beneficiaries before they become eligible for Medicare and yearly after that during an open enrollment period.

Strengthen Consumer Quality Protections: Medicare would enhance health plan quality standards to prevent improper marketing and inappropriate incentives for utilization reviewers and to ensure access to the full range of Medicare covered services, including emergency and urgent care.

II. Strengthening traditional (fee-for-service) Medicare

Currently, 90% of Medicare beneficiaries are in Medicare's traditional fee-for-service program. The vast majority of seniors are likely to continue to enroll in this part of the program, even with the new options available to them. Given these trends, it makes sense to strengthen and improve Medicare's fee for service sector.

Under this proposal, a series of reforms would transform the fee-for-service program from a bill-paying insurance program into a responsive health plan that uses a variety of techniques to improve quality and service, restrain costs, and hold providers accountable for improving the health of their patients. To achieve this goal, Congress would

provide authority to Medicare to adopt the same types of successful purchasing and quality techniques pioneered by private sector payers. Specific reforms include the following:

Establish quality performance standards: Require Medicare to establish explicit performance standards to allow enrollees to assess the program's performance on the basis of cost, quality, outcomes, and service. "Report cards" disseminated to beneficiaries would allow patients to compare providers against professional benchmarks.

Streamline rule-making process for purchasing: Develop options for simplifying the rule-making process and increasing Medicare's flexibility in negotiating contracts for specific services and categories of services.

Allow selective contracting with specialized programs: Allow Medicare to contract with specialized programs that manage chronic diseases like diabetes and congestive heart failure, complex acute care needs and the needs of disabled beneficiaries. Such specialized programs may include the use of alternatives to inpatient or institutional care or the use of specialized networks of caregivers. Private sector efforts along these lines have resulted in higher quality care, reductions in the need for institutional care and lower costs.

Provide authority to designate and contract with centers of excellence: Allow Medicare to use centers of excellence for additional complex and expensive services like surgery and cancer care. Medicare currently contracts with such centers for heart and liver transplant operations.

III. Attacking waste, fraud, and abuse

The General Accounting Office and others have estimated that up to 10 percent of health care expenditures and billions of dollars in Medicare payments are lost every year to fraud, waste, and abuse. These losses must be the first target of any responsible plan to reduce Medicare expenditures. This plan would take the most aggressive and comprehensive steps ever proposed to stamp out Medicare waste, fraud and abuse.

Specific measures include the following:

Expand abuse-fighting activities: Much abuse goes undetected and unpunished because there are not enough inspectors, auditors and prosecutors to do the job. Estimates indicate that every dollar invested in antifraud activities by the HHS Inspector General and Medicare contractors results in up to ten dollars in savings to Medicare. The Democratic Medicare plan more than doubles the current investment in fighting fraud and abuse. The plan also requires greater coordination of Federal, State and local law enforcement efforts to combat health care fraud.

Strengthen penalties for committing fraud: The Democratic plan would impose stiff penalties on those convicted of health care fraud, illegally distributing controlled substances, providing kickbacks, charging Medicare excessive fees, submitting false claims, or engaging in other abusive activities. This plan also strengthens available criminal remedies.

End wasteful Medicare spending for certain items and services: For example, Medicare pays $2.32 for gauze pads that the Veterans Administration purchases for four cents. The Democratic Medicare plan would make Medicare a more prudent buyer of certain types of durable medical equipment, medical supplies, and other services while assuring continued access to these important services.

Improve collection of inappropriate Medicare payments: The Democratic Medicare plan would strengthen the Medicare Secondary Payor Program, requiring Medicare to more aggressively to collect payments due from private insurers. It would also extend Medicare secondary payor provisions for ESRD beneficiaries.

Employ more sophisticated, private sector computer technology: Require Medicare contractors to employ code manipulation detection software such as that widely used in the private sector.

Increase incentives to expose Medicare fraud and abuse: Establish rewards for reports by consumers that lead to criminal convictions for health care fraud and encourage the voluntary disclosure of fraud and abuse by health care providers.

Simplify administration and reduce paperwork: Require a uniform application process for health care providers seeking to participate in Medicare.

IV. Ensuring Medicare's solvency

Only $89 billion in savings—not the $270 billion proposed by the GOP—are needed to keep the Medicare Trust Fund solvent through at least the next decade. The Chief Actuary of the Health Care Financing Administration (HCFA), whose estimates form the basis of the Medicare Trustees' recommendations, has certified that an $89 billion reduction in the rate of growth of Part A expenditures over the period 1996–2002 would extend the life of the Medicare Hospital Insurance Trust Fund through at least the fourth quarter of calendar year 2006.

This proposal would call for a series of measures to reduce Medicare spending by $89 billion over the next seven years. Savings would be achieved through the above-mentioned reforms to Medicare's fee-for-service program and Medicare's private health plan options, while slowing the rate of growth of payments to providers. Special provisions are included to assist rural hospitals. No new costs would be imposed on beneficiaries.

This plan provides more reasonable reductions in all categories:

SENATE MEDICARE PLANS

[In billions of dollars]

	Democrats	Republicans
Seniors and the disabled	0	68
Hospitals	42	86
Skilled nursing facilities	6	10
Home health	9	18
Physicians	11	23
HMO's	23	50

While preserving Medicare's solvency until 2006, the plan would help Medicare prepare for the challenges it will face when the baby boom generation begins to retire in 2010. A commission would be created, charged with conducting strategic planning for the Medicare program to ensure that recipients in the 21st century have available to them the high quality and secure coverage that current beneficiaries enjoy.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is the amendment. It is very difficult to understand what is in it. But let me make a point. This pending amendment is not germane to the Budget Reconciliation Act. I raise a point of order against the pending amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, subject to section 904 of the Congressional Budget Act of 1974, I move to waive the section for the purpose of considering this amendment.

I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the purpose of considering the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that [Mr. LAUTENBERG] is necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—47

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

NAYS—52

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

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 to waive the Budget Act is rejected. The point of order is sustained and the amendment falls.

Mr. DOLE. Let me indicate we are 6 minutes over on that vote. We could almost have had a second vote. I think there is a feeling we ought to try and finish this as quickly as we can. We are going to try to stick to the 7½ minutes. I want everybody to have a fair warning. We will try to do that.

Obviously, there is always some flexibility, but we would appreciate everyone's cooperation.

AMENDMENT NO. 3015

Mr. DOMENICI. Mr. President, I understand now that if I send the

Hutchison amendment to the desk, which had previously been withdrawn—Senator BYRD objected, and he now has no objection. I send it to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS, proposes an amendment numbered 3015.

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

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

The amendment is as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(2) with peace talks scheduled to begin in the United States on October 11, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the former Yugoslavia.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

Mr. EXON. I yield back our time and support the amendment.

Mr. DOMENICI. We yield back our time

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. EXON. 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. 3016

(Purpose: To amend the Internal Revenue Code of 1986 to allow qualified retiring farmers to rollover the gain from the sale of farm assets into an individual retirement account, provide an offset by improving the application of the capital gains tax to sales of stock in domestic corporations by 10 percent foreign shareholders, and for other purposes)

Mr. DOMENICI. Mr. President, in agreement with the other side, I am sending an amendment to the desk on behalf of Senator KOHL on farmer IRA's. It has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. KOHL proposes an amendment numbered 3016.

Mr. DOMENICI. Mr. President, I ask unanimous consent 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. DOMENICI. We yield back any time.

Mr. EXON. Mr. President, let me thank Senator KOHL, who has worked on this for a long, long time. It is a very good amendment. He has worked with the majority leader on this. We are enthusiastic about this on our side.

Mr. DOMENICI. Senator BYRD would like to have the amendment explained.

Mr. KOHL. This amendment will allow family farmers—not farmers who are not farming the land, family farmers—who farm the land for generations, when they sell their farm to roll over up to $500,000 of the proceeds into an IRA account. It only applies to hard-working family farmers.

We offset it by requiring those individuals from foreign lands or corporations, foreign lands who own U.S. stocks who are not now subject to tax, when they sell that stock, they will in the future be required to pay a U.S. tax on the sale of that U.S. corporation stock that they own.

I think the offset is an outstanding offset and I think the purpose of the IRA is to reward hard-working family farmers. I think it is a really good amendment.

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

The amendment (No. 3016) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

(Purpose: To require the President to include a generational acounting in the President's budget)

Mr. DOMENICI. Mr. President, I send a Simpson amendment to the desk in his behalf.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. SIMPSON proposes an amendment numbered 3017.

Mr. SIMPSON. Mr. President, I ask unanimous consent 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 add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

Mr. SIMPSON. Mr. President, I rise today to offer an amendment that all Senators should be able to agree on. It would require that the President's annual budget continue to include a chapter on generational accounting.

"Generational accounting" is a way to consider the fiscal treatment of different generations. Specifically, it indicates what the members of each generation can expect to pay on average, now and in the future, in taxes, as a result of current budget expenditures and revenues.

President Bush included a chapter on generational accounting in his 1993 fiscal year budget and President Clinton included a chapter on generational accounting in his 1995 fiscal year budget—but he failed to include any mention of generational accounting in this year's budget.

Thirty of the 32 of us on the bipartisan commission on entitlements and tax reform concluded that if we do nothing about the impending entitlements crisis, by 2012 every penny of our Federal revenues will be necessary to pay for entitlements and interest on our national debt. In 2040, our children and grandchildren will be forced to pay 40 percent of the national payroll tax base in taxes.

It is crucial that we begin to take a longer term view of the future and consider how the impact of our decisions today will affect our children and grandchildren. If you truly are concerned about the burden of taxes on those we love, then you will support this amendment.

For 2 days now, I have listened to my colleagues wail about the poor, the young, the disenfranchised while they ignore the biggest crisis—the impending bankruptcy of the Social Security Program. It is like crying about slipping on a banana peel on the deck of the *Titanic*.

Our temporary fix for the Medicare Program is nothing more than delaying the inevitable. My colleagues are cheering that Medicare will not go broke in 2002, but rather in 2008. Now that is something to be proud of. Yet, we only have ourselves to blame.

In the past, the Social Security Advisory Council provided guidance on Social Security and Medicare issues. However, we got rid of the Advisory Council and instead created an Advisory Board—except that they no longer provide guidance on Medicare issues. How ironic. The program that is going to the dogs first, is the program we decided we do not want any guidance on.

So we have done it to ourselves. But we can stop this game-playing if we are forced to consider what we are doing to future generations—and this is why generational accounting is so important.

Mr. President, this amendment would simply require the annual budget of the President include a chapter on generational accounting.

The President of the United States, President Clinton, did a nice job on that in the first budget message. It was left completely out of the second one.

I think it is vitally important we tell the American people 20 and 30 years down the line who is paying the bills. I hope we can get back what President Clinton put in his first budget. This requires that so that we know what is out there 20 or 30 years from now—generational accounting, who is paying the bills, who really cares about the children of the country and also deals with that issue in an upfront way.

Mr. EXON. We yield back our time and accept the amendment.

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

The amendment (No. 3017) was agreed to.

Mr. EXON. 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. 3018

(Purpose: To provide States with the flexibility to continue to provide medical assistance under the Medicaid program to certain disabled individuals with incomes over 250 percent of poverty)

Mr. EXON. Mr. President, we have agreed on an amendment that has been worked on for a long time by Senator WELLSTONE.

I yield 30 seconds to him for the purpose of introducing the amendment which both sides have agreed to accept.

Mr. WELLSTONE. Mr. President, this is a Wellstone-Chafee amendment. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. CHAFEE proposes an amendment numbered 3018.

Mr. WELLSTONE. Mr. President, I ask unanimous consent 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 section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

Mr. WELLSTONE. Mr. President, this amendment that I send to the desk with Senator CHAFEE would just provide States with the flexibility to continue to provide medical assistance under the Medicaid Program to disabled individuals, especially children that are staying home, in order to make sure that they can continue to stay at home.

It is very important in the disability communities, and I am very pleased to have the support from both sides of the aisle.

Mr. DOMENICI. Mr. President, I think we ought to accept this amendment. This says States have the right to continue the same kind of service they are giving now for disabled people.

It eliminates any concern that they might now have and mandates nothing. I think we should accept it.

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

The amendment (No. 3018) was agreed to.

Mr. EXON. 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. EXON. I advise the Senate and the chairman of the committee that the next four amendments all have to do with medical matters. We think we have those bundled into one amendment that can be offered.

If required, though, I would like unanimous consent that we have tentatively agreed to; roughly, that if we have situations like this—in this case there are four introducers—if the introducers would like 30 seconds each, we would grant them that to encourage further melding of these amendments that are similar into one amendment and therefore expedite the process.

Mr. DOMENICI. Does the minority leader agree with that? I had talked to him. It sounded a little different when he was proposing it.

Mr. DASCHLE. Mr. President, I have no objection to that approach. I think all Senators need to have the opportunity to express themselves, whether it is a block of time or one person does it or individual blocks of time.

I know the distinguished Senator from West Virginia is very concerned that everybody have a complete appreciation of what it is that these amendments include. In this case, all of the amendments deal with Medicaid. They are interrelated and in some cases the original amendments were overlapping. So it is our view it expedites not only the process but the issue, in order to allow us to bring them up together.

So I think all concerns are served in this particular amendment. I hope we can support it.

Mr. DOMENICI. Let me just address this for a moment. Senator BYRD, as I understand it, if they would have sent their amendments up singly, they would have had 30 seconds. That is the agreement. They are going to send up

four together—three—and they will have 30 seconds on each of those and we will have 30 seconds to respond on each of those, which I think does nothing more than save us the time of three votes. The rest of the rights are all intact, as we have agreed to them here in the Senate.

Mr. EXON. I was explaining that rather than four, we set aside the Dodd matter, which will be considered separately. The Feingold, Moseley-Braun, and Rockefeller amendments are embodied under the agreement that we have worked out.

Pending final working out of some details, I suggest, since Senator DODD, whom I earlier thought was included in this, is not and since he is next on my list, at this time I yield 30 seconds to Senator DODD for an explanation and the introduction of his motion that both sides have received some time ago.

DODD MOTION TO COMMIT

Mr. DODD. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes a motion to commit.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

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

The motion is as follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue reductions for upper income taxpayers by $51,000,000,000 in order to—

(1) restore current law Medicaid eligibility for children and pregnant women;

(2) include coverage of prenatal care and delivery services for pregnant women and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for children;

(3) strike the 20 percent cut from title XX of the Social Security Act;

(4) strike the cap on foster care administrative expenses;

Mr. DODD. This does three things. It restores Medicaid coverage for pregnant women and children, both eligibility and benefits; it restores the cut in title 20, which States are widely using for child care assistance; and, third, it restores the cut in foster care funds that States use to investigate reports of child abuse and to recruit foster parents. Again, these are three issues I think most people here believe are critically important. This would restore those parts of the bill.

CHILDREN: CARING HAS A COST

Mrs. MURRAY. Mr. President, I want to speak today about the children of this Nation, about my hope they will not give up hope, and my wish they will look forward to a brighter future. I want to tell the children of this country and of my state—despite what is going on in this current budget fight—there are adults who care about them.

I do not want to say the adults in the majority party don't care about our children. This budget plan does make me wonder, however, whether some Members of this austere body remember what it is like to raise children:

It makes me wonder whether some Members have ever really had to deal with the modest problems and costs every working family has to deal with: the costs of child care, the costs of medical care, the costs of school lunch. I would simply remind those Members: caring does have a cost, and the cost is in no way reflected in this budget.

Children in this country feel like they have less to look forward to than ever before. Many adults on this floor have decried the state of our children's present and future, and many of us have felt the eyes of these kids upon us as we have cast a vote or made a speech.

So, here is what the majority will do for our kids in this budget: they will take away the health care coverage that allows kids to be healthy and ready to learn and grow. They will take away the child care that allows kids' parents to work. And, they will take away the foster care that helps kids in serious need.

Well, we have an amendment to this budget reconciliation bill to repair the damage: it will restore current Medicaid coverage for pregnant women and their kids, restore child care, and restore foster care funding.

On Medicaid, we need to preserve a basic safety net for children born into families of modest means. Medicaid is not free tummy-tucks for folks who don't need it.

Medicaid provides preventive and emergency care for needy kids, and long-term care for disabled children—who could be the children of any American family. We are restoring Medicaid coverage for these children, on a per-capita basis, instead of a block-grant that would cause them to compete against the elderly or other groups.

On child care, we cannot say to working mothers, struggling to stay off public assistance, "Oh, by the way, we are cutting money that allows you to work for a living." The Republicans have cut $3.3 billion in title XX child care grants to States at the same time they are promising $3 billion under welfare reform. Do not try and trick anyone. They are cutting child care—our amendment restores the cut.

On foster care, the majority is now going after children who do not even have birth-parents to rely upon. This cut is a classic: it tells a child, "we're really sorry that it's not working out with your folks, and that this is the toughest time in your life, but we cannot afford to pay for your foster care." Meanwhile, of course, the Republicans want to give tax breaks to people who can already afford to leave their children in the care of a high paid nanny every day.

Mr. President, our children are more important to us than a number on a balance sheet. I understand and agree we must balance the budget. We must preserve a future for our children, by not handing down our debts. But let us keep families alive, and able to work to support and raise their kids. Otherwise, we will shackle future generations with a much worse kind of debt.

The PRESIDING OFFICER (Mr. SMITH). Who yields time?

Mr. DOMENICI. Mr. President, I move to table the Dodd motion.

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 table the Dodd motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced, yeas 50, nays 49, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—50

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

NAYS—49

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

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

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

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

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, earlier we had suggested that three Medicare amendments by Senator FEINGOLD, Senator MOSELEY-BRAUN, and Senator ROCKEFELLER be combined into one. We agreed that each Senator would have 30 seconds to explain their joint amendment.

At this time, I ask the Chair to recognize Senator FEINGOLD, then Senator MOSELEY-BRAUN, and then Senator ROCKEFELLER.

I congratulate them for expediting the process.

Mr. BYRD. Mr. President, I do not believe consent has been given to package amendments.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Reserving the right to object, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

The senior Senator from West Virginia.

Mr. BYRD. Mr. President, if this were the only time we would have a request for three amendments in one package, it might be all right. My problem with this is two or threefold. One, if we start down this road of packaging three amendments, the next time it will be four, and the next time five. Suppose someone objects, and would like to vote against one of the amendments in the package? He has to vote against the whole package. That is No. 1.

No. 2, if permission is given for this request, then I would assume our friends on the other side of the aisle will think they are entitled to package three or four amendments, but there may then be some objections over here.

So it seems to me to at least prevent ill will, hard feelings, and streamlining the process further—we do not know what we are voting on now. It is an absolute absurdity what is going on here.

I am not going to object in this one instance. But who is going to be the next to make such a request?

I do not object in this one instance.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 3019

(Purpose: To retain 1-year Medicaid coverage for recipients of assistance under State plans funded under part A of title IV who lose medicaid eligibility because of income when the recipient enters the work force)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROCKEFELLER), for himself, Mr. FEINGOLD, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3019.

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 text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. ROCKEFELLER. Mr. President, I am proud to offer this amendment with Senator MOSELEY-BRAUN and also Senator FEINGOLD. It basically does three things, and we combine them for the sake of efficiency.

We propose several improvements to the Medicaid Program. One is to help low-income families get health care when they move from welfare to work. Second is to help seniors get long-term care. And third is to make it much better for pregnant women and children——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. ROCKEFELLER. Twelve years and under to have standards for their health benefit packages.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment provides for flexible community and home-based, long-term care programs for individuals with disabilities of any age that have been Medicaid funded by striking provisions in the bill providing new tax expenditures for long-term care insurance and expanded IRA's.

The amendment would save $2.3 billion over 7 years. It is based on a very successful program in Wisconsin that has saved us hundreds of millions of dollars by keeping people in the community rather than in nursing homes.

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 20 seconds.

Ms. MOSELEY-BRAUN. Mr. President, the other part of the amendment has to do with people who are transitioning from welfare to work so we can provide that they will not lose health coverage, and particularly that the children will not be put in jeopardy of losing their health care when their parents go into the work force. Over a million children will be involved with this, Mr. President, and I encourage support for providing a minimal safety net for them.

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

Mr. DOMENICI addressed the Chair.

Ms. MOSELEY-BRAUN. Mr. President, I appreciate your graciousness. Senator FEINSTEIN had an amendment like this and would like to be a cosponsor, and I ask unanimous consent she be added as a cosponsor.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator MOSELEY-BRAUN's amendment creates new entitlements, not germane, mandates on the States that are not found in the bill. Senator FEINGOLD's long-term care amendment which has been added here—is that correct? Whose long-term care amendment is here?

Mr. EXON. Senator FEINGOLD.

Mr. DOMENICI. Senator FEINGOLD, excuse me. He would destroy the badly needed relief proposals and spend the money on Medicaid. The amendments are filled with these kinds of things, but overall they violate the Budget Act for germaneness, and I make a point of order.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that act for the purpose of considering the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the consideration of the amendment. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—45

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

NAYS—54

Abraham	Coverdell	Grassley
Ashcroft	Craig	Gregg
Baucus	D'Amato	Hatch
Bennett	DeWine	Hatfield
Bond	Dole	Helms
Brown	Domenici	Hutchison
Bryan	Faircloth	Inhofe
Burns	Frist	Kassebaum
Campbell	Gorton	Kempthorne
Chafee	Graham	Kerrey
Coats	Gramm	Kyl
Cochran	Grams	Lott

Lugar	Nunn	Smith
Mack	Pressler	Stevens
McCain	Roth	Thomas
McConnell	Santorum	Thompson
Murkowski	Shelby	Thurmond
Nickles	Simpson	Warner

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Is Senator PRESSLER here? We are next on this side and want to do his wheat amendment.

Has the Senator an amendment ready on his side?

Mr. EXON. Yes. I am ready.

Mr. DOMENICI. I might announce on our side, if Senator PRESSLER would come to the floor. If he cannot make it for some reason, let us take Senator GRASSLEY. Senator GRASSLEY will be next after the Democrat amendment. All right.

Does the Senator have an amendment ready?

Mr. EXON. We do have the Mikulski amendment.

I recognize Senator MIKULSKI from Maryland for the purpose of—before I recognize her, I ask unanimous consent that it be in order that the Senator from Maryland be permitted to offer a motion to instruct conferees on the clinical lab standards at this time.

Mr. DOMENICI. Was that a consent request?

Mr. EXON. Yes.

Mr. DOMENICI. I have to object while I speak for a minute on it.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. I object.

You have something else?

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thought it—recognizing the Senator's right, certainly, to object—I thought it had been cleared that I could offer my amendment and that it had been cleared with the Republican leadership. So I am happy to wait and let another amendment go by. I think we need to clarify this situation.

Mr. DOMENICI. Why does the Senator need consent to proceed with an amendment? Why? Does the Senator need unanimous consent?

Ms. MIKULSKI. No.

I thought it was agreed that no one would object to this coming up, I say to the Senator. I am surprised the Senator objected.

Mr. DOMENICI. Mr. President, I think we are going to be able to agree with the Senator shortly. Can the Senator wait a little bit?

Ms. MIKULSKI. I will be happy to wait.

Mr. DOMENICI. I thank the Senator very much.

Mr. EXON. Mr. President, since the Mikulski matter has been set aside temporarily, the next amendment is an amendment regarding dairy, offered by the Senator from Wisconsin, Senator FEINGOLD. I yield 30 seconds on our side to him for that stated purpose.

AMENDMENT NO. 2999

(Purpose: To strike the provision relating to the milk manufacturing marketing adjustment which provides special treatment to California cheese processors at a budget cost of $20 million)

Mr. FEINGOLD. Mr. President, I offer an amendment on behalf of myself, Senator PRESSLER, Senator GRAMS, Senator MCCAIN, and Senator KOHL, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, and Mr. KOHL, proposes an amendment numbered 2999.

Mr. FEINGOLD. 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 33, strike lines 21 through 24.

Mr. FEINGOLD. Mr. President, the 1990 farm bill contains a provision designed to prevent California cheese processors from receiving artificial milk manufacturing incentives which are significantly higher than those allowed in the rest of the country under the Federal milk product support program.

The reconciliation bill repeals this provision resulting in a $20 million cost to the Federal taxpayer by the purchase of additional cheese surpluses from California. This amendment strikes that provision and leaves current law intact and saves $20 million.

The PRESIDING OFFICER. The pending question is amendment No. 2999.

Mr. DOMENICI. That is the amendment that was just described?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Do I not have 30 seconds to respond?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, the Agriculture Committee bill would repeal section 102 of the 1990 farm bill. Section 102 was put in that bill to override State operating orders. It has been in existence for 5 years and has never been used.

It seems to me we ought to remain consistent and we ought to defeat the amendment.

I move to table the 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 to lay on the table amendment No. 2999. The yeas and nays have been ordered. The clerk will call the roll.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—57

Baucus	Ford	Lieberman
Bennett	Frist	Lott
Bond	Gorton	Lugar
Boxer	Graham	Mack
Breaux	Gramm	McConnell
Brown	Hatch	Mikulski
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murkowski
Coats	Helms	Nickles
Cochran	Hollings	Roth
Cohen	Hutchison	Santorum
Coverdell	Inhofe	Shelby
Craig	Inouye	Simpson
D'Amato	Jeffords	Snowe
Dodd	Kassebaum	Specter
Dole	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Leahy	Thurmond
Feinstein	Levin	Warner

NAYS—42

Abraham	Exon	Moseley-Braun
Akaka	Feingold	Murray
Ashcroft	Glenn	Nunn
Biden	Grams	Pell
Bingaman	Grassley	Pressler
Bradley	Gregg	Pryor
Bryan	Harkin	Reid
Bumpers	Johnston	Robb
Burns	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Smith
DeWine	Lautenberg	Stevens
Dorgan	McCain	Wellstone

So the motion to lay on the table the amendment (No. 2999) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I am not quite certain where we are in the process. Some have suggested that we take a couple hours recess here to try to get the amendments into a little group. I do not know how many are left. We do not have any idea how much longer it is going to take.

We are trying to decide whether to leave here at six and come back at nine in the morning, or whether to take an hour break and see if we cannot further winnow down the number of amendments. We would like to finish it sometime tomorrow.

RECESS

Mr. DOLE. I ask that we stand in recess for 20 minutes.

There being no objection, the Senate, at 3:56 p.m., recessed until 4:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The majority leader is recognized.,

Mr. DOLE. Mr. President, I had a discussion with the Democratic leader, Senator DASCHLE. We have had discussions here with Members on both sides.

It is my understanding we can now, maybe shortly, propound a list of amendments and only those amendments would be in order. Hopefully, they will not all be offered, but that is where we are right now.

I think, in the meantime, I am prepared to consent to the request of the Senator from Maryland, Senator MIKULSKI, who made a unanimous-consent request that we might have a vote on a motion to instruct before passage rather than after passage.

I have no objection to that request. We are trying to work out the motion itself.

Ms. MIKULSKI. I thank the leader for his consideration. What, then, would he advise me to do? Just wait patiently, as is my temperament?

Mr. DOLE. The Senator has always been patient. But I would ask that the Senator be permitted to offer it before the vote rather than after the vote. I make that unanimous-consent request.

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

Mr. DOLE. We will try to work it out so maybe it will go very quickly.

Ms. MIKULSKI. I thank the leader.

Mr. DOLE. In the meantime, I guess we can just continue back and forth.

Mr. DOMENICI. I think I have one here which I would like to go ahead and get done, which is an amendment of Senator GRASSLEY regarding Indian health.

Mr. EXON. It has been approved.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2955

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 2955.

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:

On page 862, line 16.

Subsection (e) of Section 2123 is amended by adding ", other than a program operated or financed by the Indian Health Service," after "other federally operated or financed health care program".

Mr. DOMENICI. Mr. President, this has been cleared on both sides. Senator GRASSLEY has taken an interest in a concern of the Indian Health Service with reference to Medicaid and other third party reimbursement programs. This gives them permission to get involved in that program as a health delivery system.

Mr. EXON. Mr. President, I yield the remainder of my time. We agree with the amendment. I ask for the vote.

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

The amendment (No. 2955) was agreed to.

Mr. EXON. 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. EXON. Mr. President, moving ahead in the fashion in which we have been plowing ahead and making some progress, the next amendment on this side would be by the Senator from Iowa, Senator HARKIN.

I yield our time on his amendment to him for the description and introduction of the amendment.

AMENDMENT NO. 3020

(Purpose: To support the President's promise in 1993 to not require significant additional cuts in programs that affect rural America, to preserve the safety net for family farmers which represent the backbone of American Agriculture, to maintain the competitiveness of American Agriculture, and to ensure a future supply of American Agricultural products)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELLSTONE, Mr. HEFLIN, and Mr. BUMPERS, proposes an amendment numbered 3020.

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

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

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

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senators DASCHLE, DORGAN, WELLSTONE, HEFLIN, and BUMPERS.

Basically, Mr. President, this is an agricultural substitute. It cuts $4.2 billion out of agriculture, not the $12.6 billion that is in the bill. It provides for a two-tier marketing loan system for wheat and feed grains. And we offset the cost of the bill by striking the provisions of the bill affecting the alternative minimum tax.

So basically, if you want a fairer farm bill for our farmers and rural people, this is it. It only cuts $4.2 billion, not the $12.6 billion in the bill. And we do have an offset.

Mr. DOMENICI. Mr. President, this is a rewrite of the farm bill which is in this reconciliation bill. After much concern and consideration, the Committee on Agriculture provided a farm bill which reforms much of agriculture in America.

I do not believe we ought to be undoing that here with a total substitute. It is not germane and is subject to a point of order under the Budget Act. And I raise a point of order against the pending amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—31

Akaka	Feinstein	Leahy
Baucus	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Heflin	Murray
Conrad	Hollings	Pryor
Daschle	Inouye	Robb
Dodd	Kennedy	Simon
Dorgan	Kerrey	Wellstone
Exon	Kerry	
Feingold	Kohl	

NAYS—68

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Graham	Murkowski
Biden	Gramm	Nickles
Bingaman	Grams	Nunn
Bond	Grassley	Pell
Bradley	Gregg	Pressler
Breaux	Hatch	Reid
Brown	Hatfield	Rockefeller
Burns	Helms	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee	Jeffords	Shelby
Coats	Johnston	Simpson
Cochran	Kassebaum	Smith
Cohen	Kempthorne	Snowe
Coverdell	Kyl	Specter
Craig	Lautenberg	Stevens
D'Amato	Levin	Thomas
DeWine	Lieberman	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

This amendment adds new subject matter and therefore is not germane. The point of order is sustained. The amendment fails.

Mr. DOLE. Are there further amendments?

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986

Mr. DOMENICI. Senator SPECTER has a sense of the Senate amendment.

Mr. SPECTER. Mr. President, I call up amendment 2986.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, is it in order to modify the amendment?

AMENDMENT NO. 2986, AS MODIFIED

(Purpose: To express the sense of the Senate concerning a flat tax and reform of the current Tax Code)

Mr. SPECTER. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes amendment numbered 2986, as modified.

Mr. SPECTER. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: SEC. . Sense of the Senate.—

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filing out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits;

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate.

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate that Congress should proceed to adopt a flat tax. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being progrowth, not regressive with a substantial exemption for individuals.

And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

Mr. EXON. Mr. President, this amendment has no effect on reducing the deficit, which is what this bill is all about. It is a good political statement for people who are involved in politics at this particular time in the year. I think we do not have the time to look at this. I may be for a flat tax at some time in the future, but this is not the place or the time to put the Senate on record.

Therefore, Mr. President, I raise a point of order that the pending amendment is extraneous and violates the Byrd Rule, section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I move to waive that section.

The PRESIDING OFFICER. The motion is made to waive.

Mr. SPECTER. 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 the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 17, nays 82.

[Rollcall Vote No. 536 Leg.]

YEAS—17

Baucus	Grams	Murkowski
Breaux	Grassley	Nickles
Brown	Helms	Pressler
Campbell	Inhofe	Reid
Craig	Kempthorne	Specter
Dole	Lott	

NAYS—82

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

The PRESIDING OFFICER. On this vote, the yeas are 17, the nays are 82. 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 Pennsylvania presents nonbinding sense-of-the-Senate language and has no budgetary effect. Therefore, it is out of order under section 313(b)(1)(A) of the Budget Act.

The point of order is sustained. The amendment falls.

CHANGE OF VOTE

Mr. PRESSLER. Mr. President, on rollcall vote 534, I voted "yea." It was my intention to vote "nay." Therefore, I ask unanimous consent to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing talley has been changed to reflect the above order.)

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next amendment will be offered by Senator WELLSTONE, the Senator from Minnesota. I yield him 30 seconds for that purpose at this time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

AMENDMENT NO. 3021

(Purpose: To target commodity-program benefits to small and moderate-sized farm operations, and to ensure that large farm operations contribute to deficit reduction, by requiring that agricultural payment limitations be directly attributed to individuals and set at a maximum of $40,000 per person for payments, with resulting savings applied to the purpose of reducing the number of unpaid flex acres for farm-program participants within the payment limitations, and for reducing the size of the budget reduction in the Conservation Reserve Program)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3021.

Mr. WELLSTONE. 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:

SEC. 1. PAYMENT LIMITATION

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency

payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446t) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENT.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(A)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv)) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103B(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'.

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308-3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS

(a) Strike section 1103(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(b) Strike section 1104(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(c) Strike section 1105(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'; and

(d) Strike section 1106(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'."

SEC. 3. CONSERVATION RESERVE PROGRAM

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

"(3) $1,476,000,000 for the fiscal year 1998;

"(4) $1,277,000,000 for the fiscal year 1999;

"(5) $1,131,000,000 for the fiscal year 2000;

"(6) $1,029,000,000 for the fiscal year 2001; and

"(7) $1,004,000,000 for the fiscal year 2002."

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

The PRESIDING OFFICER. The Senate will please be in order. Senators please take their conversations elsewhere.

Mr. WELLSTONE. Mr. President, this would limit the farm payments to $40,000 a year. Over the last 10 years, only 2 percent of the recipients have received more than that.

It saves $1.6 billion over 7 years. It assures that the larger farmers are a part of deficit reduction and from these savings, this goes back to help some of the mid-sized farmers and also the Conservation Reserve Program.

I send this amendment to the desk with Senator LIEBERMAN as a cosponsor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is another attempt, in a slightly different way, to restructure the agricultural reform provisions in this bill, worked on at length by our committee.

I do not believe it violates the Budget Act, so I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3021. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—64

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bond	Grams	Nickles
Boxer	Gregg	Nunn
Breaux	Hatch	Pryor
Brown	Hatfield	Roth
Bumpers	Heflin	Santorum
Burns	Helms	Shelby
Campbell	Hollings	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Specter
Coverdell	Inouye	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebaum	Thompson
DeWine	Kempthorne	Thurmond
Dole	Kerrey	Warner
Domenici	Kyl	
Faircloth	Lott	

NAYS—35

Bingaman	Glenn	Moseley-Braun
Bradley	Grassley	Moynihan
Bryan	Harkin	Pell
Byrd	Jeffords	Pressler
Chafee	Kennedy	Reid
Cohen	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Simon
Dorgan	Levin	Snowe
Exon	Lieberman	Wellstone
Feingold	Mikulski	

So the motion to lay on the table the amendment (No. 3021) was agreed to.

AMENDMENT NO. 3022

(Purpose: To make the "manager's" amendments to the bill)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BROWN, proposes an amendment numbered 3022.

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:

On page 13, strike lines 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission: and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad" account).

Mr. DOMENICI. Mr. President I think this has been cleared on both sides. This has to do with lease-purchase agreements and authority to do that interagency, between agencies, of the Government.

Mr. EXON. Mr. President, I yield back the remainder of my time. We approve of the amendment.

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

The amendment (No. 3022) was agreed to.

Mr. EXON. 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. EXON. Mr. President, I believe the next amendment that we have would be by the Senator from New Jersey.

I yield 30 seconds for the purpose of an explanation of the amendment to the Senator from New Jersey.

AMENDMENT NO. 3023

(Purpose: To strike sections 5400 and 5401 of the reconciliation bill, sections which provide for the discounted prepayment of construction costs currently owed by farmers to the Federal government for irrigation water provided under the Reclamation program, thereby relieving them of the 960 acre limitation on delivery of federally subsidized water contained in the Reclamation Reform Act of 1982)

Mr. BRADLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], proposes an amendment numbered 3023.

Strike sections 5400 and 5401.

Mr. BRADLEY. Mr. President, I move to strike sections 5400 and 5401 of the reconciliation bill. These provisions represent corporate welfare at its worst. They direct costly Federal irrigation subsidies—originally intended to support small family farmers—to the largest farm operations in the West. They will benefit only a handful of wealthy individuals. I oppose granting additional subsidies to those least in need of Federal handouts, and ask my colleagues to do the same.

When the Reclamation Program began in 1902, Congress provided low cost irrigation water to small, 160 acres or less, family farms. The policy was intended to help small farmers; large farms were explicitly excluded from the subsidies.

In 1982, Congress recognized that the average family farm had grown, and increased the acreage limitations from 160 acres to the present 960 acres. Holders larger than 960 acres were required to pay full cost for irrigating their excess holdings.

The reconciliation bill creates a loophole permitting the wealthiest farmers to avoid paying full cost instead of the subsidized price. It allows farmers with excess holdings to prepay for their water—nothing wrong with that—but at the subsidized rates intended for small family farms. For these large farm operations, the cost of prepaying could be less than the cost of 1 year's irrigation water. These individuals would then be exempt forever from acreage limitations and full-cost pricing, even if the Federal Government makes new investments that would enhance their water projects. The net present value of the benefits to these individuals—and loss to the U.S. Treasury—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?

As a result of this provision, the very family farmers for whom the Reclamation Program was designed will face ever-larger competitors who obtain even greater subsidies than the small farmer. This change in policy would be accomplished without hearings and without any meaningful analysis of impacts, taxpayer costs, winners or losers. It also is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to buy their way out of Federal regulations is fundamentally unfair; to offer them a discount just compounds the inequity.

Mr. CRAIG. Mr. President, I rise in strong opposition to the motion by the Senator from New Jersey to strike the provisions in the title of the Committee on Energy and Natural Resources that would repeal the prohibition on prepayment of construction charges.

I read with some interest the "Dear Colleague" sent around by the Senator from New Jersey. It presents a curious and inaccurate history of reclamation provisions. Its description of the committee provision is also flawed. The letter uses the rhetoric of "corporate welfare" and "costly * * * subsidies" as if they were some magic incantation that would transform the true intent of the motion. The committee language does not create a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be without interest, but it would have to repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey and elsewhere who repay nothing because their benefits are called flood control.

The statement is also inaccurate in suggesting that Congress provided the water, since in many of the early projects, such as the Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with State law, and the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the suggestion that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government annually for all operation and maintenance costs as well as a portion of the capital construction costs. Granted the Federal Government was not seeking to make a profit, but repayment was a new concept imposed on the reclamation program.

The statement also says that the program was limited to "small (160 acres or less) family farms". In fact, the reclamation program spoke of individual ownership limitations. Each person could own 160 acres. So could that person's spouse and so could each of that person's children. A family with four children could own 960 acres. In addition, there were no limitations on how much additional land could be leased. That family could lease an additional thousand acres in addition to the 960 acres it owned. One major problem that the 1982 reclamation reform sought to resolve was whether those acreage provisions applied only on a district by district basis or Westwide. When the letter speaks of the 1982 act easing "the acreage limitations, raising them from 160 acres to the present 960 acres", it is not being completely honest. In the 1982 act, we set the acreage limit at 960 acres for an entire family including both owned and leased lands and then applied the limit Westwide. That was reform; it was not necessarily good news for large families.

The letter describes the provision in the committee reconciliation bill—Part I of Subtitle E—as creating a loophole for large farmers. In fact, the provision simply repeals a foolish limitation on prepayment that was inserted in the Reclamation Reform Act in 1982. That limitation excluded any contract that already contained a prepayment provision, so it was discriminatory on its face.

The letter suggests that enactment is bad for family farmers who will face ever-large competitors who obtain even greater subsidies. That statement is simply disingenuous. The reason for opposition to the committee provision has nothing whatsoever to do with concern for family farmers—or farmers in general. Prepayment eliminates the construction debt and the false accusation that the repayment is a subsidy. What the proponents of this motion fear is the loss of their rhetoric. Upon payment of the construction debt, the operation of the project is turned over to the water users. Section 6 of the 1902 Reclamation Act provides in relevant part that "when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense." That is what really bothers the authors of this motion. They fear the loss of control and their ability to load totally unnecessary costs onto the farmers in the Western States under the guise of operations.

Operation and maintenance will pass to the project beneficiaries as soon as repayment is complete, and the acreage limitations will no longer apply. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over

family farmers for as long as possible. No one should misunderstand the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objective is. The regulations, which depend solely on continuing the construction debt, are part of the savage and unrelenting attack on water users in the West by this administration and its allies in the Congress.

The letter states that this is a change in policy that would be accomplished without hearings and without any meaningful analysis. In fact, the limitation on prepayment was specifically raised during our hearings on S. 602 earlier this year when witnesses noted the prohibition on prepayment as an obstacle to transfer of certain project features. It was implicit in our field hearings on the Department's proposed regulations that were conducted in Twin Falls, ID, and in Riverton, WY. I hope my colleagues who truly care about the farmers in this Nation pay close attention to what this administration has proposed in these regulations. Under the guise of defining what constitutes a lease, Secretary Babbitt is seeking to impose a new and onerous intrusion into individual farm operations.

Reclamation law speaks to ownership, land owned or leased, and Congress explicitly adopted an economic benefits test to distinguish a lease from a management agreement. Secretary Babbitt ignored the legislation and its history to conduct his campaign of aggression on Western farmers, and it is that campaign the authors of this motion seek to perpetuate. We have gone down that road several times. We have faced efforts in the Energy Committee to use the mere sharing and equipment by farmers as an indicia of a lease, so we know what the real intent is.

Despite Congress' explicit adoption of the economic benefit test, on April 3, 1995, Secretary Babbitt proposed new regulations that would adopt a far broader and more intrusive standard.

According to the proposed regulations:

> Lease means any agreement between a landholder (the lessor) and another party (the lessee) under which possession of the lessor's land is partially or wholly transferred to the lessee. Possession means the authority to make, or prevent the lessor from making decisions concerning the farming enterprise on the land; or the assumption of economic risk with respect to the farming enterprise on the land. In situations where possession has been partially transferred from a landholder to another party, a lease will be considered to exist if the majority of possession is not held by the potential lessor. In situations where possession has been transferred from a landholder to more than one other party, a lease will be considered to exist between the lessor and the party holding the greatest degree of possession.

In its analysis of the proposed rules (60 Fed. Reg. 16924) Interior explains the lease definition change as follows:

> Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the reputed lessee. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not deem the operator to be in a lease relationship. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates.
>
> The new definition would make possession the singular element indicating the existence of a lease. The definition would eliminate economic interest as an essential element of a lease (although economic risk would remain a factor indicating the existence of a lease). Thus, under the proposed regulation, whenever someone other than the landowner has possession of non-exempt land, a lease would exist. Reclamation would consider fixed-fee operations leases and would subject the parties to full cost pricing if possession of the land has been transferred, and if non-full cost entitlements are exceeded.
>
> The second and third sentences of the definition would address the situation where more than one party has some degree of possession; for example, a landowner may contract with a farm manager but may retain some decisionmaking authority.
>
> Reclamation intends the proposed definition of the term lease to exclude arrangements between landowners and custom operators, employees, lenders, and other landholders with whom farm equipment is shared.

Interior's examples show that even if a landowner "retains all economic risk associated with" farming his land, if he does not "make all major decisions concerning the farming operation," a lease will exist, and full cost will be charged (60 16929).

During our field hearings in Twin Falls, ID, this August, Senator McClure, the chairman of the Energy Committee when the Reclamation Reform Act was adopted, made a very eloquent statement on the effect and propriety of the proposed regulations. He stated:

> Under the proposed regulations, if a farmer were to fall ill and his children or neighbors were to take over the management of the farm until he recovered, they would get a bill for full cost from Secretary Babbitt.
>
> If a farmer were to die and his children took over the management of the farm so that their mother would not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even reimbursed for their costs.
>
> If a farmer were called to military service and his father took over the farm while he served his country, the President would present him a medal and Secretary Babbitt would send him a bill for full cost.
>
> At the rate EPA is trying to regulate every aspect of our lives, I guess we could send the bill for full cost to Carol Browner.
>
> The point I want to make is Congress settled this issue. The test is beneficial interest measured solely by economic benefit. That is the law and Secretary Babbitt lost.

Mr. Chairman, you have other witnesses who can testify to equivalency, trusts, involuntary acquisitions, and other provisions of these new rules. I will not go into them at this time. What I want to emphasize is that these rules have no foundation in law or legislative history. They are symptoms of a larger struggle of federalism in which this Administration seeks to abuse its authority and impose its social agenda on the West. While there is an underlying preoccupation with certain farm arrangements in California, there is also a philosophy that Secretary Babbitt represents that believes Washington should dictate the future of the West. It is a philosophy that wants control of water and an end to irrigated agriculture. It is a philosophy that hides behind the need for conservation in the arid west to drive its particular vision. This is an ongoing struggle that surfaces here with attempts to make farming uneconomic and municipal water supplies prohibitively expensive. It surfaces elsewhere on grazing, on mining, on mineral leasing.

I take great pride in what I was able to accomplish in returning salmon runs to portions of Idaho that had not seen salmon in years. I managed to do that while respecting State law and the primacy of State water law. I take great pride in moving the Hells Canyon legislation through the Congress, but I did that in full compliance with State law including subjecting federal reserved rights to future upstream beneficial uses. As anyone can see, we have not dried up the Snake.

Mr. Chairman, the federal-state relationship is not one of master-servant, as much as Secretary Babbitt may want it to be. Federalism means a respect for the rule of law and a recognition that this is a Republic of sovereign States with a central government of limited delegated powers. These rules violate that trust.

Mr. President, the sole reason behind the motion to strike is a desire to continue the predation undertaken by Secretary Babbitt on Western farmers. There is not the slightest concern for farmers, small or large, family or corporate. What the committee did was solely to permit individuals or districts holding repayment or water service contracts to pay off the intolerable subsidy that the proponents of the motion to strike have complained of for so long. The outrageous discount that the "Dear Colleague" complains of is language imposed by the Senator from New Jersey on the prepayments that he has agreed to over the past 6 years—it is his language. The language also includes a provision that requires a premium if the district were to use tax exempt bonding—as many of them could. There is no such requirement in reclamation law or in any of the existing contracts that provide for prepayment or accelerated payment. That is a requirement also insisted on by the Senator from New Jersey in our recent legislation and we have included it here.

In short, Mr. President, the cries of "corporate welfare" and "unwarranted subsidies" ring very hollow when the true motivation is simply to protect the scorched earth assault on the West being conducted by this administration

through Secretary Babbitt and his allies. Even Director Rivlin plaintively objects to this provision as an unjustified provision allowing prepayment—unjustified solely because farmers might be able to go back to farming without fear that this administration will succeed in driving them off their land.

Mr. DOMENICI. 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 yield my 30 seconds to Senator CRAIG in opposition to the amendment.

Mr. CRAIG. Mr. President I hope we could oppose this amendment.

In the bill we are attempting to pass, we are asking reclamation projects ready to prepay to repay now upon a negotiated relationship with the Bureau of Reclamation, to return money to the Treasury now.

The Senator from New Jersey is striking that. We think we have crafted good law, which is exactly the intent of the original reclamation law, only we advance the opportunity to pay it out and then turn those authorities to the owners of the property according to those within the projects.

Mr. DOMENICI. Mr. President, I move to table 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 clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced— yeas 60, nays 39, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—60

Abraham	Domenici	Kempthorne
Akaka	Dorgan	Kerrey
Ashcroft	Exon	Kyl
Baucus	Faircloth	Lott
Bennett	Feinstein	Mack
Bond	Ford	McCain
Boxer	Frist	McConnell
Breaux	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grams	Pressler
Campbell	Grassley	Roth
Coats	Hatch	Santorum
Cochran	Hatfield	Shelby
Conrad	Heflin	Simpson
Coverdell	Helms	Smith
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Inouye	Thompson
Dodd	Johnston	Thurmond
Dole	Kassebaum	Warner

NAYS—39

Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Bradley	Jeffords	Nunn
Bryan	Kennedy	Pell
Bumpers	Kerry	Pryor
Byrd	Kohl	Reid
Chafee	Lautenberg	Robb
Cohen	Leahy	Rockefeller
Daschle	Levin	Sarbanes
Feingold	Lieberman	Simon
Glenn	Lugar	Snowe
Graham	Mikulski	Specter
Gregg	Moseley-Braun	Wellstone

So the motion to lay on the table the amendment (No. 3023) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I have a unanimous consent request that has been cleared by all parties, if I might make that?

The PRESIDING OFFICER. May we have order, please. I did not hear the Senator from New Jersey.

POSITION ON VOTE

Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rollcall 531 I was present, voted aye. The official RECORD has me listed absent. There was some confusion at the front.

Therefore, I ask unanimous consent that the official RECORD be corrected to accurately reflect my vote. There is no change in the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3024

(Purpose: To ensure the health of newborn children by allowing low-income unemployed pregnant women otherwise in compliance with food stamp work requirements and all other requirements of the Food Stamp Act to receive food stamps throughout pregnancy; to provide nutrition funding for American Samoa; and to provide an offset by implementing the reduction in the food stamp standard deduction one month earlier than otherwise would have occurred under S. 1357)

Mr. EXON. Mr. President, the following unanimous consent request has been cleared with the majority managers.

On behalf of the Senator from Vermont, Senator LEAHY, I send an amendment to the desk and ask for its consideration, and further, I ask unanimous consent that further reading be dispensed with after it is started, the amendment be agreed to, and the motion to table the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. LEAHY, proposes an amendment numbered 3024.

The PRESIDING OFFICER. The agreement was it not be read.

The amendment is as follows:

On page 103, on line 6, strike "(D)" and insert ("E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:

"SEC. 1430. PROVIDING FUNDING FOR AMERICAN SAMOA.

Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96-597 during that fiscal year.'.

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

The PRESIDING OFFICER. Is there any further explanation of this amendment?

Mr. BYRD. Mr. President, may we have an explanation?

The PRESIDING OFFICER. The Chair has just requested that, I say to the Senator from West Virginia.

What is the explanation of the amendment.

Mr. EXON. This amendment allows pregnant women to stay on food stamps, if they otherwise are eligible for food stamps, even after 6 months if they cannot find a job. This treats pregnant women with their first child in the same manner as women who care for dependent children. The amendment is paid for by cuts in the standard deductions. The amendment saves money.

Without this change, pregnant women will be taken off food stamps in their third trimester of pregnancy if they cannot find a job.

That is a brief explanation of the amendment that has been agreed to.

The PRESIDING OFFICER. Is there objection to the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 3024) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

POINT OF ORDER

Mr. CHAFEE. Mr. President, the reconciliation bill contains a provision which would put the Hyde language permanently into law. This is the first time that this has been done. The Hyde language has always appeared in annual appropriations bills which are open to modification.

This provision, subsection 2123(g) of the Social Security Act, as added by section 7191(a) in the reconciliation measure, does not produce a change in outlays or revenues and is not necessary to implement a provision that does change outlays or revenues.

I, therefore, raise a point of order under section 313(b)(1)(a) of the Budget Act against that provision.

Mrs. MURRAY. Mr. President, I rise in strong support for the amendment offered by the Senator from Rhode Island, Senator CHAFEE, to strike certain restrictive language from the Medicaid block grant portion of this bill, and I am proud to be a co-sponsor of this important amendment. I consider the inclusion of this language to be yet another attack on poor women waged by this Congress, and I urge my colleagues to support this motion to strike.

The Medicaid block grant proposal approved by the Senate Finance Committee includes a provision which bars States from using Federal funds to pay for most abortions for poor women. The bill allows States to use Federal dollars to fund abortions only in cases of rape, incest or where the mother's life is in danger. This is not a new idea—we have seen restrictions like this one, known as the Hyde amendment, added to appropriations bills year after year. The key difference is that, now, this discriminatory ban could be made permanent—and I urge my colleagues to join us in ensuring this does not happen.

Including this ban as a component of Medicaid law is an unprecedented and alarming evolution in the attempt to restrict women's access to abortion, and will have devastating effects on the women who rely on the Medicaid program to provide health care coverage. Even more offensive, the target in this case is low-income women, who deserve the same access to critical reproductive health services available to other women in this country. If we do not strike this language from the bill, we are allowing Congress to single out poor women, and this sends a very strong message to the women of this country.

This ban is shortsighted, careless, and insulting to women across our Nation. Voting to include the Hyde language tells these women—we do not care. Without providing coverage for abortion services, we will be sending low-income and poor women straight to the back alley where they will be forced to choose unsafe alternatives and risky procedures—and make no mistake, Mr. President—women will die.

Women who receive an average of $400 a month from public assistance cannot raise the estimated $300 for a first-trimester abortion. What do you think a woman in this position will do? Will she divert money she should be spending on rent? Will she be forced to use the money she sets aside to feed herself or her child she already has? Or will she choose the cheaper, albeit unsanitary and dangerous, alternative? I do not want to place poor women in the position of having to make this kind of choice. It is wrong and it is cold-hearted.

And lastly, Mr. President, how does this federally-mandated restriction on how States can spend block granted funds fit into the mantra of the Republican reform agenda—State flexibility? This ban does not foster State innovation, and it certainly is not about getting Washington, DC out of local policy decision-making. In fact, this ban ties the State's hands and is really nothing short of the kind of Federal micromanagement the Republicans are usually so quick to attack.

I want to commend Senator CHAFEE for his commitment and his leadership on this issue. I know he tried to strike this restrictive and discriminatory language in Committee, but was unfortunately defeated. I thank him for trying again here on the floor, and I am proud to join in his efforts. I urge my colleageus to support this amendment.

Thank you.

The PRESIDING OFFICER. The time for the debate is over.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, pursuant to section 904(d) of the Budget Act, I move to waive the Budget Act for this provision if included in the conference report on this measure.

Mr. CHAFEE. 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 motion of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—55

Abraham	Conrad	Ford
Ashcroft	Coverdell	Frist
Bennett	Craig	Gorton
Biden	D'Amato	Gramm
Bond	DeWine	Grams
Breaux	Dole	Grassley
Brown	Domenici	Gregg
Burns	Dorgan	Hatch
Coats	Exon	Hatfield
Cochran	Faircloth	Heflin
Helms	Mack	Shelby
Hutchison	McCain	Simpson
Inhofe	McConnell	Smith
Johnston	Murkowski	Thomas
Kassebaum	Nickles	Thompson
Kempthorne	Pressler	Thurmond
Kyl	Reid	Warner
Lott	Roth	
Lugar	Santorum	

NAYS—44

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Nunn
Bradley	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Campbell	Kerry	Sarbanes
Chafee	Kohl	Simon
Cohen	Lautenberg	Snowe
Daschle	Leahy	Specter
Dodd	Levin	Stevens
Feingold	Lieberman	Wellstone
Feinstein	Mikulski	

The PRESIDING OFFICER. On this vote, there are 55 yeas, 44 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is well taken.

Mr. EXON. 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.

AMENDMENT NO. 3025

(Purpose: To strike the sale of 25 millions of barrels of Strategic Petroleum Reserve oil in order to protect our national energy security and to fully offset the revenue loss by imposing a 2.5 percent net smelter return royalty on certain hardrock mines)

Mr. EXON. Mr. President, I believe the next amendment to be brought up per agreement is Senator BUMPERS with a Strategic Petroleum Reserve amendment, and I yield the 30 seconds to Senator BUMPERS for the purpose of proposing the amendment and appropriate remarks.

Mr. DOMENICI. Did not the Chair have to rule on that?

The PRESIDING OFFICER. The Chair did rule. The provision has been stricken.

Mr. DOMENICI. I apologize to the Chair.

The PRESIDING OFFICER. The clerk will report the Bumpers amendment.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3025.

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

Mr. BUMPERS. Mr. President, in the last 133 years, the mining companies of America have mined $254 billion worth of gold and silver off Federal lands and have not paid 1 cent in royalty.

This amendment provides for a royalty of approximately 50 percent of what they pay in the private sector, and it offsets the sale of the Strategic Petroleum Reserve, which loses $600 million.

I agree with the Senator from Texas. It is time these corporate welfare people in the back of the wagon get out and help the rest of us pull it. I strongly urge your support.

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

Mr. DOMENICI. Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this Senate has asked for 4 years for major mining law reform. In this legislation for the first time is a complete rewrite of the 1872 mining law, with new royalties, new reversionary clauses, and all that you have asked for and scored by CBO to yield $150 million.

You asked for mining law reform, and we have given it to you in a fair and balanced way that allows the public land to yield to the taxpayers what you would want it to yield.

I hope you would stay with us on this very important provision.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the Bumpers 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 vote is on the motion by the Senator from New Mexico to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—56

Abraham	Domenici	Lugar
Ashcroft	Faircloth	Mack
Baucus	Ford	McCain
Bennett	Frist	McConnell
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Chafee	Helms	Simpson
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Inouye	Thomas
D'Amato	Kassebaum	Thompson
Daschle	Kempthorne	Thurmond
DeWine	Kyl	Warner
Dole	Lott	

NAYS—43

Akaka	Conrad	Gregg
Biden	Dodd	Harkin
Boxer	Dorgan	Hollings
Bradley	Exon	Jeffords
Bumpers	Feingold	Johnston
Byrd	Feinstein	Kennedy
Coats	Glenn	Kerrey
Cohen	Graham	Kerry
Kohl	Moynihan	Sarbanes
Lautenberg	Murray	Simon
Leahy	Nunn	Smith
Levin	Pell	Snowe
Lieberman	Pryor	Wellstone
Mikulski	Robb	
Moseley-Braun	Rockefeller	

So the motion to table the amendment (No. 3025) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, how long was that last vote?

The PRESIDING OFFICER. Approximately 8 minutes. The Chair stands corrected: 11 minutes.

Mr. DOLE. That is what I thought. We have been running over 4 or 5 minutes on each vote. With five or six votes, that is a half hour. Again, let me say to my colleagues, this next time, we are going to shut it down. I hope we do not make anybody upset over it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The clerk can call the roll and record Senators better if Senators do not block the clerks' view. I ask again Senators not come into the well during the time the clerk is tallying the vote.

Mr. DOMENICI. Mr. President, I have two unanimous consent requests that I believe will be acceptable. Senator MIKULSKI asked us to approve a unanimous consent request in her behalf, and Senator NICKLES has a similar one in terms of what we would be agreeing to.

So I want to pose these unanimous consent requests. We agreed to Senator MIKULSKI's? Correct my remarks. We want to do the same for Senator NICKLES that we did for Senator MIKULSKI.

I ask unanimous consent that it be in order for Senator NICKLES, immediately after Senator MIKULSKI offers her motion to instruct, to move to instruct the conferees with reference to the Hyde amendment.

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

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Maryland.

MIKULSKI MOTION TO INSTRUCT CONFEREES

Ms. MIKULSKI. Mr. President, I send a motion to the desk on behalf of myself, Senator KASSEBAUM, Senator SNOWE, Senator BOXER, Senator FEINSTEIN, Senator MURRAY, and Senator MOSELEY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conferees on the part of the Senate to insist upon guaranteeing to the American public that the quality and effectiveness standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking certain provisions in the House amendment relating to section 353 of the Public Health Service Act (standards that ensure quality in testing for risk factors such as a heart attack or stroke, kidney disease, prostate and colon cancer, gout and strep).

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Ms. MIKULSKI. Mr. President, the purpose is to instruct conferees to reject the provisions in the House bill to repeal the Clinical Lab Improvement Amendments of 1988.

Before 1988, clinical labs lacked uniform standards. Dirty labs were tolerated. Tests were misread. Diseases were misdiagnosed. Staff was inadequately trained and overworked. People died of sloppy work.

What does the House bill do? It repeals CLIA '88 for all physicians' labs except when the labs conduct Pap smears. I urge conferees to stick with the Senate position and to reject the House repeal of CLIA '88.

Let me tell my colleagues what CLIA is. And why it is so important.

CLIA '88 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs.

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to a time when tests were misread and diseases misdiagnosed.

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus, when doctors were using inferior methods of reading slides; when people with the virus went undetected because the virus was mutating and was unrecognized by physicians.

Or turn back to a time when the lab technicians were overworked and undersupervised, when slides were taken home, when dirty labs were tolerated, when lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works. It works because CLIA saves lives.

Prior to CLIA, women were dying after having pap smears misread 2 or 3 years in a row.

Prior to CLIA, complex tests for heart disease, conducted improperly, put patients at risk of serious impairment or death. As we know, medical conditions like heart disease not detected early, not only are more expensive to treat but result in certain disability or death.

Today, the stakes are high for quality lab tests and diagnosis. The need for quality testing for HIV and AIDS

and the impact this has on our communities is without question. We are talking here about a matter of life and death.

CLIA ensures quality testing and quality laboratories.

For the first time, all labs that perform similar tests must meet similar standards, whether located in a hospital, a doctor's office or other site.

Americans must be assured that all labs are of the highest quality and performance standards.

CLIA saves tax dollars by curbing fraud and abuse.

An unexpected benefit of the CLIA law has been to weed out the most unscrupulous of labs that run scams and take advantage of the most vulnerable members of our society.

Today, CLIA is threatened. Why?

The House Reconciliation bill repeals CLIA for all physician labs except when the lab conducts pap smears. No hearings, no review of the Inspector General's report on the impact of CLIA, no opportunity for the public to respond.

The House even recognized the importance of CLIA by carving out one exemption—for labs that conduct pap smears.

My question is this: Does the Senate really want to tell somebody facing the prospect of heart attack or diabetes, that we do not care that your tests are performed adequately?

That we only care if quality standards are met for one particular test and not the entire battery of other life-saving tests being conducted? I do not think so.

Quality standards in labs are critical to saving lives. Uniformity is the key. Safe and effective standards are the goals of CLIA—no matter where the lab is located—in a hospital, doctor's office or other health setting.

My colleagues, the Senate position is right. The Senate wisely left CLIA alone.

Changes in CLIA should not be done in the context of Reconciliation, but should be done with careful and deliberate consideration in the Labor and Human Resources Committee.

CLIA is so important. We should not act hastily. To do otherwise, puts lives in danger, puts families at risk. I am not willing to take that chance, are you?

My motion is simple. Stick with the Senate position. Leave CLIA alone.

I urge support for the Mikulski motion.

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

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this motion, because the House had some provisions to allow some flexibility for physicians to conduct tests in their offices.

Frankly, we are talking about some simple tests: in some cases, strep tests or blood tests. CLIA, the Clinical Laboratory Improvement Act, drives up the cost of doing a lot of these tests, in some cases makes it prohibitive to do it, so they have to send off the test to the bigger cities. That wastes time, it wastes money, it makes health care a lot more expensive and dangerous in many areas of the country.

The PRESIDING OFFICER. Time has expired.

Ms. MIKULSKI. 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. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—49

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

NAYS—50

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

So the motion was rejected.

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

The motion to lay on the table was agreed to.

SMITH MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized to make a motion to instruct conferees.

Mr. SMITH. On behalf of the Senator from Oklahoma, [Mr. NICKLES] and myself, I send a motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the amendments to the bill S. 1357 be instructed to recede to the House amendment relating to the prohibition on federal funding for Medicaid Abortions except to save the life of the mother or in cases of rape or incest.

Mr. SMITH. Mr. President, the Chafee point of order, a few minutes ago, removed the Hyde language, which is no Federal funding for abortions except in the case of rape, incest, or life to the mother, which has been on the books a long, long time.

Basically, the Nickles and Smith motion would instruct the conferees to preserve the status quo on Federal funding of abortions.

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.

Mrs. BOXER. Mr. President, the Senate just sustained a point of order, we are only going to reverse this and bring it up when the bill comes back. I hope you will vote against the motion.

The PRESIDING OFFICER. Does the Senator yield the balance of his time?

Mr. EXON. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Bennett	Frist	McCain
Biden	Gorton	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Conrad	Heflin	Santorum
Coverdell	Helms	Shelby
Craig	Hutchison	Simpson
D'Amato	Inhofe	Smith
DeWine	Johnston	Thomas
Dole	Kassebaum	Thompson
Domenici	Kempthorne	Thurmond
Dorgan	Kyl	Warner
Exon	Lott	

NAYS—43

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Campbell	Kerry	Simon
Chafee	Kohl	Snowe
Cohen	Lautenberg	Specter
Daschle	Leahy	Stevens
Dodd	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

So the motion was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. It is my understanding and agreement with the chairman I will recognize the Senator from North Dakota and yield to him for 30 seconds.

CONRAD MOTION TO COMMIT

Mr. CONRAD. I have a fair share balanced budget plan at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], moves to commit.

Mr. CONRAD. I ask unanimous consent reading of the motion be dispensed with.

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

The text of the motion follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with the following changes to legislation in the Committee's jurisdiction:

(1) Modify the medicare provision to achieve $156,000,000,000 in savings instead of the excessive $270,000,000,000 in the Republican plan.

(2) Modify the medicaid provisions to achieve $125,000,000,000 in savings instead of the excessive $182,000,000,000 in the Republican plan.

(3) Modify the welfare provisions to achieve $26,000,000,000 in savings instead of the excessive $65,000,000,000 in the Republican plan.

(4) Modify the tax provisions by eliminating the tax cuts totalling $245,000,000,000 and instead raise revenue beyond the corporate welfare provisions in title XII be eliminating $228,000,000,000 in tax loopholes, breaks, and preferences without affecting taxpayers with incomes below $140,000.

The changes in the legislation shall be made in a manner that achieves the same deficit or surplus in fiscal year 2002 as the current bill, balances the budget without counting Social Security surpluses in 2004, and accomplishes the following:

(1) A reduction in agriculture programs by no more than $4,000,000,000 instead of the $13,000,000,000 reduction in the Republican plan.

(2) A reduction in food and nutrition programs by no more than $19,000,000,000 instead of the $35,000,000,000 reduction in the Republican plan.

(3) No reductions in student loan programs instead of the $10,000,000,000 reduction in the Republican plan.

(4) A reduction in veterans programs by no more than $5,000,000,000 instead of the $6,000,000,000 reduction in the Republican plan.

(5) No reductions in domestic discretionary programs beyond a hard freeze instead of slashing investments in our economic future $191,000,000,000 below a hard freeze as in the Republican plan.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

In order to spare my colleagues another rollcall vote and in the fleeting hope that I might inspire some of my other colleagues to withdraw amendments that are not absolutely necessary we vote on this evening, I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

So the motion was withdrawn.

Mr. EXON. Mr. President, I thank my friend and colleague for his fine statement.

I might suggest we move two other matters I understand we have clearance on—the Lott amendment and the Bingaman amendment.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of Senator HELMS that on rollcall vote 520 wherein he voted no be changed to aye. He made a mistake, and the changing of this vote will not affect the outcome.

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

AMENDMENT NO. 3026

(Purpose: To eliminate reasonable cost reimbursement under the Medicare Program of legal fees after an unsuccessful appeal of denied claims)

Mr. DOMENICI. On behalf of Senator BINGAMAN and myself, I offer an amendment looked at by our Finance Committee, and which is obviously satisfactory on that side.

We believe the Medicare law already prohibits payments to providers for legal fees when the providers lose an appeal.

However, the GAO has reported some loopholes in the Medicare law so that this might not be the effect out in the field—even losers may collect losers' fees.

This will correct the situation. I send the 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 New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN proposes an amendment numbered 3026.

Mr. EXON. Mr. President I ask unanimous consent 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 subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 139x(v)(1)(R) is amended by striking "section 1869(b)" and inserting "section 1869(a) or (b)".

Mr. BINGAMAN. Mr. President, the purpose of this amendment is to prohibit the payment of legal expenses to providers when they appeal the denial of a claim or cost adjustment and lose that appeal. Providers would still be able to recover other legal expenses, including the cost of an appeal if they prevail on the appeal under the provisions of this amendment.

The amendment would save money for Medicare part A and prevent a potentially large abuse of the current system. The Federal Government should not be paying for individuals or corporations to sue the Federal Government especially when they sue and lose their appeal.

Mr. EXON. Mr. President, I yield back our 30 seconds. I agree with the understanding that has been made.

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

So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

(Purpose: To amend the Civil War Battlefield Commemorative Coin Act of 1992, and for other purposes)

Mr. DOMENICI. On behalf of Senator LOTT and Senator JEFFORDS, I send another amendment to the desk.

This is to amend the Civil War Battlefield Commemorative Coin Act of 1992, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. LOTT, for himself, and Mr. JEFFORDS proposes an amendment numbered 3027.

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

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

The amendment is as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern Hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Corinth, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7) not more than $250,000 to acquire sites at Berryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and;

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

Mr. LOTT. Mr. President, the Congress passed commemorative coin legislation in 1992. These funds were to be used for the preservation and acquisition of Civil War battlefields.

Proceeds from the sale of the coins have been accumulating in the trust fund, rather than being spent to purchase land.

This amendment will not add to the deficit; it merely will require that these funds be used for their original purposes.

Under this amendment, the funds would be used to purchase land only in places where there is already a commitment of private matching funds. The $4.8 million designated here will purchase $24.1 million in battlefield land; that is 20 percent coin revenues leverages the remaining 80 percent from other sources.

If these funds are not expended, options on the land will be lost and the battlefields will be developed rather than preserved.

Mr. EXON. I have to advise my colleague, I thought this was cleared. I am now advised we have one Senator that has asked to be consulted on this yet.

I am wondering if we could hold this up momentarily.

Mr. DOMENICI. Mr. President, I wonder if we could accept the amendment without reconsideration.

Mr. EXON. I apologize. I thought it was cleared. I think we can clear it if we can hold it over temporarily.

Mr. DOMENICI. I ask unanimous consent that it be temporarily set aside, Mr. President.

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

Mr. EXON. Mr. President, I believe the next amendment is another amendment by the Senator from Arkansas with regard to asset sales. For the purpose of introducing that amendment and explaining it, I yield our 30 seconds to the Senator from Arkansas.

AMENDMENT NO. 3028

(Purpose: To restore fiscal sanity to the budget process by prohibiting the scoring of asset sales to ensure that taxpayers are adequately protected)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY, proposes an amendment numbered 3028.

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:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

Mr. BUMPERS. Mr. President, from 1987 until 1995 we had a specific prohibition against scoring asset sales for a very good reason. You cannot balance the budget by selling off all our assets. It is like Rudolph Penner who talked about the lawyer coming home one night and told his wife he had a great day. She said, "What happened?" He said, "I sold my desk."

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

Mr. DOMENICI. Mr. President, did we miss something?

Mr. EXON. Yes. But it is all right.

Mrs. MURRAY. Mr. President, I rise in support of the asset sale scoring prohibition amendment jointly offered by Senators BUMPERS, BRADLEY, and me.

The budget resolution before us has been termed an historic document. It certainly is. For the last decade, the Congress of the United States has recognized that our public lands and other Federal assets were too precious to sell or lease unless Congress or the Administration decided that so doing was in the best interest of the public. That is good policy and one that traditionally has enjoyed strong bipartisan support.

But it is a new day. Today, we may well vote to sell our children's heritage to pay our debts. I reject this approach to debt reduction, and I reject this approach to disposition of our Federal assets.

While this bill only puts up for sale the rights to develop oil and gas in the Arctic National Wildlife Refuge, these wilderness lands are only the beginning. Other public lands, national treasures and assets are being proposed for sale in the House budget reconciliation bill and more likely will be targeted next year and the year after. Henceforth, unless this amendment is adopted, any public lands or Federal assets can be sold for the quick cash and political capital gained from balancing the budget in a given year. It is a dangerous, bad precedent.

Mr. President, our assets should not be sold simply to reduce the deficit. Instead, our Federal assets should be sold only when, after reasoned debate and a full public airing, we decide their sale is in the best interest not only of our generation—but of every generation that follows. We owe our children much more than a balanced budget. We owe them their heritage.

Mr. President, I urge my colleagues to support our important amendment and thwart efforts to sell our heritage for quick cash.

Mr. BRADLEY. Mr. President, I rise in support of the Bumpers/Bradley amendment to restore the traditional method of scoring asset sales that the Congress changed last June in the Budget Resolution. The change allows Congress to count the sale of public assets—parks, powerplants, buildings, the Arctic National Wildlife Refuge, even oil in national storage facilities —as deficit reductions despite the fact that such sales are actually money-losers.

This budgetary innovation opened the floodgates for proposals to unload valuable Federal assets in return for the fast buck, often at fire-sale prices. Many of these proposals, in fact, will lead to reduced revenues in the future, and higher deficits. This approach relies on political myopia—a simple-minded scoring of sales revenue within the limited budget window—and fails to withstand the straight face test. Only by railroading these proposals through the Senate, under the very restrictive and controlled conditions of budget reconciliation, would many of these proposals ever have a chance of becoming law.

The Energy Committee's title is loaded down with asset sales that follow the same pattern. While they produce deficit reductions in their first few years, as valuable assets are sold off, after a few years the pattern reverses and deficit reductions are turned into increases. In most cases the red ink continues far out into the future, easily dwarfing the deficit reductions of the early years. Thus asset sales are both short term and short sighted.

Why we produce these budget resolutions in the first place? The reason is not to balance the budget. If it were, I am sure we could create some appropriate fiction which showed budgetary balance by definition.

But that is not what we were supposed to be doing here. We are supposed to be systematic. We are supposed to be honest. We are supposed to be consistent. We are supposed to address the

substantive, structural issues which keep the Federal Government spending—year in, year out—more money than it takes in.

So what do we have here, buried deep in this bill? We have a trick, a gimmick. We cut spending, by redefining what a cut is. Now, for the first time since we gave this budget process teeth—with the passage of Gramm-Rudman—we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve, and chalk that up to deficit reduction.

This asset sale formula leads to all sorts of questionable proposals. Because even outrageously low sales prices would still score as deficit reductions for the short period of the budget window, asset giveaways could receive a budget blessing.

In fact, I doubt that any business accountant or economist would agree with the underlying budgetary premise—that liquidating public assets adds to public wealth. If I sell my stock portfolio and put the returns in my checking account, do I become wealthier? Have I protected my children? It may make sense to sell my stocks, but the transaction itself produces no wealth—except for my broker.

Consider the Arctic National Wildlife Refuge. We can lease the Refuge to oil developers and sell any oil that might be underground to them. We will get some money. The companies will get the rights to oil. If they find oil, probably it will be shipped to the Pacific rim and burned completely. Have we done a lot for our kids? You must be joking.

At best, we can claim for our children a neutral financial transaction. But what about the larger issues? If we go ahead with the development of ANWR, we damage probably irrevocably a unique, world-class ecosystem. We consume utterly a non-renewable resource. We get some cash.

If we forego the drilling of ANWR, we preserve intact this ecosystem. We preserve intact any oil underground and the possibility of future development. We do not get the cash.

I, frankly, reject any claim that our children will thank us for using up this oil and running oil rigs and oil pipelines across the Arctic Plain.

Mr. President, what the American public expects, and what our children expect, is for us to get our fiscal house in order. Our children are not asking us to sell off their collective inheritance. Our children are not asking us to look narrowly at some budget window and forget that many of these assets produce public value—and I do not just mean financial value—beyond the window.

When one Member from the other side of the aisle, Senator CRAIG, considered this issue as a House Member, he said, "Asset sales are in fact blue smoke and mirrors at best. If they are to happen, they should be set off budget." Exactly right.

Mr. DOMENICI. I do not think I will even address the amendment.

Mr. President, the amendment does not produce a change in outlays or revenues and is not necessary to implement the provisions of this budget. Therefore, I raise a point of order that the amendment violates the Budget Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The bill clerk called the roll.

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

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—49

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

NAYS—50

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

The PRESIDING OFFICER. On the motion, the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

Mr. DOMENICI. Mr. President, I believe we laid aside the Lott-Jeffords amendment with reference to Federal commemorative coins. I think we have clearance from the Senator that they have approved it; is that correct?

Mr. EXON. That is correct.

Mr. DOMENICI. So we ask we proceed with it.

I yield back my time on it.

Mr. EXON. I yield back my time and call for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3027 offered by the Senator from Mississippi.

The amendment (No. 3027) was agreed to.

Mr. EXON. 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. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2942

(Purpose: To amend the Congressional Budget Act of 1974 to extend the hours of debate permitted on a reconciliation bill)

Mr. EXON. Mr. President, the next in order, according to the list that we have agreed to, is recognition of the Senator from West Virginia for an amendment.

I yield our 30 seconds to him for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. I thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2974.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

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

Mr. BYRD. The budget process, and the good of the American people.

I hope Senators will vote for this amendment.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair will correct it. The amendment is 2942, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DORGAN, proposes an amendment numbered 2942.

The text of the amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL AND CONFERENCE REPORT.

(a) CONSIDERATION OF A BILL.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by striking "20 hours" and inserting "50 hours".

(b) CONSIDERATION OF A CONFERENCE REPORT.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "Debate in the Senate on a conference report on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.".

Mr. DOMENICI. Does the Senator want to do this one?

Mr. BYRD. I want the amendment that I wanted called up.

Mr. DOMENICI. We assumed that was the amendment.

I ask for 30 seconds.

Mr. BYRD. This is the amendment that extends the time for debate from 20 to 50 hours on reconciliation measures and from 10 to 20 hours on conference reports.

Mr. DOMENICI. Mr. President, that is what I addressed. That violates the Byrd rule, and I, therefore, raise a point of order against the amendment under section 313(b)(1)(A) of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion.

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 clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—47

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

NAYS—52

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

The PRESIDING OFFICER. On this motion, the ayes are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. STEVENS. Mr. President, on rollcall vote No. 539, I voted "aye." It was my intention to vote "no." Therefore, I ask unanimous consent to change my vote. It will not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have been waiting to do the Biden amendment. I understand that has been worked out. So I yield at this time to Senator BIDEN for the offering of his amendment, including the 30 seconds which is a part of my time.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3029

Mr. BIDEN. 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 Delaware [Mr. BIDEN] proposes an amendment numbered 3029.

Mr. BIDEN. 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 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

Mr. BIDEN. Mr. President, following the admonition of Senator Long years ago, if the amendment is accepted, I have nothing to say.

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

So the amendment (No. 3029) was agreed to.

Mr. EXON. 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.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exon point of order with regard to the Byrd rule.

Because of the Budget Act of 1974, I raise a point of order that several provisions——

Mr. BYRD. Mr. President, may we hear the Senator on this very important matter?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The

Senate will please come to order. The Senator from Nebraska has 22 seconds remaining.

Mr. EXON. Mr. President, pursuant to section 313(d) of the Congressional Budget Act of 1974, I raise a point of order that several provisions in the list I now send to the desk are extraneous and violate the Byrd rule, section 313(b)(1) of that act.

My point of order objects to about 50 provisions that the Parliamentarian has confirmed violate the Byrd rule against extraneous matter in reconciliation because they have nothing to do with deficit reduction, worsen the deficit, or otherwise violate the rule.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might request of the Senator from Nebraska, this is a very important subject matter and the Senator has been selective. There are many. I wonder, if the Senator would give us a little time to review it.

Mr. EXON. Yes, I will be glad to do that.

Mr. DOMENICI. We will not take a long time. We would like to review it and discuss it with the Senator.

Mr. EXON. That is perfectly reasonable.

Mr. DOMENICI. I thank the Senator.

Mr. EXON. We will lay that temporarily aside.

The PRESIDING OFFICER. Without objection, the point of order will be set aside.

Mr. EXON. Mr. President, the next amendment is an amendment that the Senator from Arkansas is prepared to offer—I do not see the Senator from Arkansas on the floor—with regard to mining payments and royalties. I have not been advised by the Senator he does not wish to offer the amendment.

Mr. President, I advise my friend from Arkansas that he is up next on the mining patents and royalties amendment. Does the Senator wish to offer that amendment?

Mr. BUMPERS. I do.

Mr. EXON. I yield 30 seconds of my time to the Senator from Arkansas for that purpose.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3030

(Purpose: To clarify the Senate's intent that hardrock mining companies pay fair market value for the purchase of Federal lands and minerals pursuant to the 1872 mining law and to strike the sham hardrock mining industry sponsored royalty provisions from the bill which would continue the giveaway of taxpayer owned minerals to some of the richest companies in the world)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY, proposes an amendment numbered 3030.

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:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

Mr. BUMPERS. Mr. President, there is some confusion about what fair market value is in this bill. This amendment simply says that the mining industry, when they apply for patents from the Interior Department for land, will pay fair market value.

Fair market value means just what it says: Land and minerals. Is that fair? All you have to do is vote "aye" and the U.S. Government will receive fair market value.

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

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, this is the same item we have already dealt with in budget reconciliation. In fact, we already voted on this. It will be a repeat of the same amendment my friend from Arkansas proposed previously.

Given Senator BUMPERS' rhetoric and the "we only print one-side of the issue" perspective of the national media, it is difficult to get a clear understanding of what's going on with mining law reform in the 104th Congress.

Senator BUMPERS, Secretary of the Interior Bruce Babbitt, and the national media are long on mining law rhetoric but short on substance.

Senator BUMPERS often argues the goal of mining law reform should be significantly revise patenting, to impose a royalty on the production of hardrock minerals, and to establish a mechanism to clean up abandoned mines throughout the country.

I happen to agree, but would quickly add one more essential point. Any reform bill passed by Congress should also aim to preserve the economic foundation of hardrock mining in this country—a critical industry that provides high-paying jobs for tens of thousands of American men and women.

It is on this point that legislation sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS' comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, conclude that the punitive royalty supported by Senator BUMPERS will cost thousands of U.S. jobs. His legislation would shift exploration and development capital over seas, export U.S. jobs, decrease our tax base, and increase our balance of trade deficit.

I take strong exception to criticisms that members representing western mining States oppose mining law reform legislation. What we oppose is punitive legislation that would cause unnecessary economic harm to rural mining communities across working America.

In our effort to impose a royalty on the hardrock mining industry we should not presume that more is better.

One would hope that Congress would learn from history. In 1990, when Congress enacted the Omnibus Budget Reconciliation Act, we imposed a significant tax on luxury items, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

In addition, we should learn from our foreign competitors. In 1974, British Columbia enacted the Mineral Royalties Act, which imposed royalties on mines located on Crown Lands and the Mineral Land tax Act which subjected owners of private mineral rights to royalties equivalent to those applied to Crown Lands. The result was a disaster.

During the period the royalty was in effect, no new mines went into production and several mines closed. Two years later, after thousands of mine related jobs were lost, the royalty was repealed.

Should the hardrock mining industry pay a royalty to the Federal Government? The answer is yes. But let's not make it so punitive that we destroy the industry or run it off-shore. We need to remember, just like Arkansas rice farmers, the domestic mining industry must compete in a worldwide market.

At the outset of the 104th Congress, I cosponsored the Mining Law Reform Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today's hardrock mining industry. I've actively pursued enactment of this legislation during the past several months.

It's worth noting that Secretary of the Interior Bruce Babbitt continues to issue press releases decrying the shortcomings of the existing mining law. Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It's no secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

Those provisions represent significant compromise by both sides in this debate.

For the first time in history, the legislation would require miners to pay fair market value for the surface estate of patented land.

For the first time in history, the legislation requires patented land used for nonmining purposes to revert back to the Federal Government.

This would end the so-called Federal land give-away.

For the first time in history, miners would be required to pay a royalty to the Federal Government for the production of minerals on Federal land.

The Congressional Budget Office estimates the royalty will generate over $36 million dollars during the first 7 years. As new projects come into production, revenues received from the royalty are expected to increase to $25–$50 million per year.

Finally, for the first time in history, we would create an abandoned mine land fund [AML fund], establishing a mechanism to clean up old mines, many of which were abandoned in the 1800's.

The program will be financed by one half of the royalty receipts. As royalty revenues increase, funds for the AML fund will also grow.

The legislation contained in the committee's reconciliation package answers the urgent call for increased Federal revenue without adding layers of crippling new Federal regulations or usurping the rights and responsibilities of individual States to oversee mining operations within their own jurisdictions.

Simply put, it would significantly revise the existing patenting system; impose a royalty on the production of minerals; and create a mechanism to fund the cleanup of abandoned mines; all while allowing Americans to enjoy the benefits of a strong domestic mining industry.

It's time for mining critics to stop the rhetoric and begin working to enact reform.

Senator BUMPERS' amendment is not a good faith effort at enacting responsible reform. His claims of a Federal land give-away cannot hold water in the face of the dual requirements in budget reconciliation of fair market value for the surface of patented lands and a royalty on produced minerals from the subsurface.

The time is right for reform. The language in the budget reconciliation package represents comprehensive reform that ends the so-called Federal give-away, and according to CBO, raises $148 million dollars.

I urge critics of the mining industry to support the mining law provisions in the budget reconciliation package and oppose the amendment being offered by Senator BUMPERS.

Mr. DOMENICI. Mr. President, I move to table the 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 to lay on the table amendment No. 3030. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—55

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

NAYS—44

Akaka	Graham	Mikulski
Biden	Gregg	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bumpers	Inouye	Nunn
Byrd	Jeffords	Pell
Cohen	Johnston	Pryor
Conrad	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Exon	Kohl	Simon
Feingold	Lautenberg	Smith
Feinstein	Leahy	Snowe
Ford	Levin	Wellstone
Glenn	Lieberman	

So the motion to lay on the table the amendment (No. 3030) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3031

(Purpose: To modify the estate tax reform proposals by striking the provisions excluding up to $3.25 million in business assets from the estate tax and by inserting a package of reforms specifically designed to ease the burden of estate taxes for true small businesses and family farms)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 3031.

Mr. BRADLEY. 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 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

On page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Mr. EXON. I yield 30 seconds if the Senator would like to have it.

Mr. BRADLEY. Mr. President, under the pending bill, estates worth $5 million or more would receive a tax break

of $1.7 million. This is because the bill effectively shields the first $3.25 million from tax.

This amendment would strike these provisions and substitute a package of reforms that are designed to ease the burden of estate taxes on true small businesses and family farms.

Mr. DOLE. The estate tax provision of the bill has strong bipartisan support. I think 20 to 30 Senators—we had this discussion in committee. We believe we are on the right track, trying to save farms, ranches, small businesses held by one family, two families or three families.

Mr. DOMENICI. Mr. President, I move to table the 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 clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—72

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Burns	Hatfield	Pryor
Campbell	Heflin	Reid
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Shelby
Cohen	Inouye	Simon
Coverdell	Johnston	Simpson
Craig	Kassebaum	Smith
D'Amato	Kempthorne	Snowe
DeWine	Kerrey	Specter
Dole	Kohl	Stevens
Domenici	Kyl	Thomas
Exon	Lieberman	Thompson
Faircloth	Lott	Thurmond
Ford	Lugar	Warner

NAYS—27

Akaka	Dorgan	Leahy
Boxer	Feingold	Levin
Bradley	Feinstein	Mikulski
Breaux	Graham	Moseley-Braun
Bumpers	Hollings	Moynihan
Byrd	Jeffords	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Lautenberg	Wellstone

So the motion to lay on the table the amendment (No. 3031) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I tell all that we are moving along at a reasonably rapid pace.

The next amendment is the last amendment that I have for Senator BRADLEY of New Jersey.

I yield my 30 seconds to him.

AMENDMENT NO. 3032

(Purpose: To provide additional funds to the medicaid program by using the revenues resulting from the disallowance of deductions for advertising and promotional expenses for tobacco products)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. HARKIN, proposes an amendment numbered 3032.

Mr. BRADLEY. 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 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1995.

Mr. BRADLEY. Mr. President, the amendment that I have offered denies a tax deduction for the expense of advertising tobacco products. Federal savings of $3.2 billion would be used to offset cuts in Medicaid. Currently tobacco manufacturers deduct the cost of their advertisements from their taxable income. In other words, it favors the Joe Camel ad. This amendment would eliminate that deduction.

The amendment would not prohibit tobacco manufacturers from advertising their products. It only removes the Federal subsidy through the Tax Code for their advertising.

Mr. FORD. Mr. President, this denies a legitimate business from taking a deduction under legitimate costs. And it will go to all companies in the future, if we allow this one to prevail.

So, Mr. President, I raise a point of order against the pending amendment. It violates section 305(b) of the Congressional Budget Act of 1994 because it is not germane.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1994, I move to waive the applicable sections of the act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The bill clerk called the roll.

The yeas and nays resulted—yeas 22, nays 77, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett	Glenn	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Hatch	Pell
Bradley	Hatfield	Rockefeller
Bumpers	Hollings	Snowe
Byrd	Kennedy	Wellstone
Cohen	Kerry	
DeWine	Lautenberg	

NAYS—77

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Biden	Graham	Moynihan
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Bryan	Gregg	Pressler
Burns	Heflin	Pryor
Campbell	Helms	Reid
Chafee	Hutchison	Robb
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Conrad	Jeffords	Sarbanes
Coverdell	Johnston	Shelby
Craig	Kassebaum	Simon
D'Amato	Kempthorne	Simpson
Daschle	Kerrey	Smith
Dodd	Kohl	Specter
Dole	Kyl	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Warner
Feingold	Lugar	

The PRESIDING OFFICER (Mr. STEVENS). On this vote, there are 23 yeas, 76 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order has been sustained, and the provision fails.

Mr. EXON. 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. 3033

(Purpose: To limit the capital gains deduction to gain on assets held for more than 10 years and to impose a $250,000 lifetime limit)

Mr. EXON. Mr. President, I am pleased to report that two Senators have been successful in working together to offer two amendments in a joint form. The two Senators are Senator DORGAN and Senator HARKIN. I yield each of them 30 seconds as per the previous arrangement.

Mr. DORGAN. Mr. President. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will still report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 3033.

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

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

Mr. DORGAN. Mr. President, this amendment is very simple. It changes the capital gains portion of the legislation. It would provide that if you hold an asset for 10 years, this would exclude up to $250,000 of capital gains—an exclusion, twice as much benefit for the first quarter of a million dollars in capital gains. But that is what the limit would be. It actually saves $10 billion over the capital gains provisions in the bill.

I yield to Senator HARKIN for the explanation of the second provision in the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is the so-called Benedict Arnold amendment. Many of the very wealthy individuals who renounce their U.S. citizenship then later reside in the United States for up to 180 days. Under this amendment, such individuals would resume paying taxes in the United States as if they were resident aliens similar to U.S. citizens if they would stay in the United States for 30 days.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator has 30 seconds.

Mr. DOMENICI. As to Senator HARKIN's portion of the bill, let me remind Senators, Senator MOYNIHAN had put this provision together. And it strikes an appropriate balance. This would essentially do away with the Moynihan balance in this bill.

The Dorgan part of this limits the capital gains tax to a lifetime of $250,000. This would be incredibly difficult to keep track of and almost impossible to enforce if it was fair.

I move to table both amendments. They are both en bloc.

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 agreeing to the motion to table the amendment numbered 3033. This is on both amendments in tandem.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—66

Abraham	Glenn	Lugar
Ashcroft	Gorton	Mack
Baucus	Graham	McCain
Bennett	Gramm	McConnell
Biden	Grams	Moseley-Braun
Bond	Grassley	Moynihan
Bradley	Gregg	Murkowski
Breaux	Hatch	Nickles
Brown	Hatfield	Nunn
Bryan	Heflin	Pell
Burns	Helms	Reid
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Shelby
Cochran	Johnston	Simpson
Coverdell	Kassebaum	Smith
D'Amato	Kerrey	Specter
DeWine	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Levin	Thompson
Faircloth	Lieberman	Thurmond
Frist	Lott	Warner

NAYS—33

Akaka	Exon	Leahy
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Bumpers	Ford	Pressler
Byrd	Harkin	Pryor
Cohen	Hollings	Robb
Conrad	Inouye	Rockefeller
Craig	Kempthorne	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Snowe
Dorgan	Lautenberg	Wellstone

So, the motion to lay on the table the amendment (No. 3033) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment is an amendment by Senator FEINGOLD, from Wisconsin, with regard to tax loopholes. I yield to him at this time the 30 seconds we have for each amendment.

The PRESIDING OFFICER. Senator FEINGOLD.

AMENDMENT NO. 3034

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for mercury, uranium, lead and asbestos)

Mr. FEINGOLD. Mr. President, on behalf of myself, Senator WELLSTONE and Senator BUMPERS, 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 Wisconsin [Mr. FEINGOLD], for himself, Mr. WELLSTONE, and Mr. BUMPERS, proposes an amendment numbered 3034.

Mr. FEINGOLD. 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 chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or unranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestocs (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by inserting after subparagraph (C) the following new subparagraph:

(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, this amendment eliminates the special 22 percent percentage depletion allowance for certain mine substances—asbestos, lead, mercury, and uranium.

It would allow mining companies to deduct only the cost of their capital investments as other businesses have to do. The amendment would save $83 million over 5 years, and the bulk of this tax break goes to lead mining. I do not think that makes any sense to have this kind of subsidy when State and local and Federal health officials and environmental agencies are spending precious resources for lead abatement and testing.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to use my 30 seconds. I just now make a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the

sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—43

Akaka	Graham	Moseley-Braun
Biden	Gregg	Moynihan
Boxer	Harkin	Murray
Bradley	Hollings	Nunn
Bumpers	Inouye	Pell
Byrd	Jeffords	Pryor
Chafee	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Smith
Dorgan	Leahy	Snowe
Exon	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

NAYS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebaum	Thompson
DeWine	Kempthorne	Thurmond
Dole	Kyl	Warner
Domenici	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. EXON. 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. MOYNIHAN addressed the Chair.

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

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3032 be changed from "yea" to "nay." This request will not change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

CHANGE OF VOTE

Ms. MOSELEY-BRAUN. On rollcall vote No. 548, I voted "no." It was my intention to vote "yea." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I wonder if we can take a short reading on what may be happening tonight or tomorrow.

I have had a discussion with the distinguished Democratic leader, Senator DASCHLE, and I think he is prepared to give us a fairly optimistic report on amendments left on that side.

I will be happy to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I have consulted with colleagues, and I think we are down to five amendments. One of those may fall. We are within reach now. That is the total on our side.

Mr. DOLE. Mr. President, I think on this side we have just the Finance Committee amendment. As I have indicated, there would be some additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.

I know the Senator from Florida was suggesting additional debate time.

I say to my colleagues, if we can move as quickly as we can here and finish this bill at a reasonable time tonight, we will not be in tomorrow and we will be not be in on Monday. I think it would depend on how quickly we can complete action on the bill.

In addition, we are now looking at the Byrd-Exon package on different matters that have been subjected to the Byrd rule. We have not had that list very long, but we have people working on it now to match it against our list to see why some are left out and some are put in. It is a rather selective list.

I suggest that may require some additional votes. I am not certain.

Mr. DASCHLE. Would the majority leader yield?

Mr. DOLE. I yield.

Mr. DASCHLE. Did I hear the majority leader say if we can expedite this and come to final passage tonight on the bill, we would not be in session on Monday. Is that correct?

Mr. DOLE. That is correct. We have some conference reports, but I think they can be disposed of very quickly on Tuesday morning.

I have also discussed this with the distinguished Senator from West Virginia, who has a very important appointment on Monday. I want to try to accommodate every Senator where I can. I think I can.

Mr. DOMENICI. Might I discuss the points of order that were submitted as a package by Senator EXON?

Senator, as you might know, since it is a very selective list, it has caused a lot of concern on our side; some are just working with me to see what they want to do about it. The first step we are taking so we will know is, we are comparing your selected list with our list to first find out whether there are any that we do not think should be in there.

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern.

I might also suggest a goodly number of the motions of the Byrd rule problems come from the welfare bill—not all, but many.

I might reflect for a moment how that happened. The Senate cleared a welfare bill with how many votes? Mr. President, 87–12. That bill was put in the reconciliation bill and it has its own track going. It was never perfected by the U.S. Senate or by any committees in a way that made it absent the Byrd rule problems.

In other words, we handled that on the floor. It turns out when you put it in reconciliation, obviously it has a lot of points of order.

We are concerned because most of the SenatorPremiums on the other side of the aisle and this side voted for that bill. In fact, 87 voted for it. We might want to present to the Senate a package of those Byrd rule violations and see if you all want to waive them on the basis that they got 87 votes, or if you might want to reconsider since they got 87 votes.

After all, we are the ones who vote on the 60-vote number that is required under the law. We can make that decision.

It is not simple. Frankly, it comes late, which is no one's fault. Everybody on our side knew or should have known that, as they moved their committee work law, the Byrd rule was imperative. If we did not know it on the welfare bill—because we were not preparing the welfare bill for reconciliation.

I think we may take a little time tonight because I have a lot of concern on my side for the Senators, and I want to make sure they understand and get a chance to evaluate it. I do not think you would deny us that. We will give you adequate time on our major amendment. This is major, major to some people on our side.

With that explanation, let us proceed, and we will do the best we can.

Mr. DOLE. I indicated before, I know we will do these things, but if we do

them as quickly as we can, then it will make things easier for all of us and make it possible to leave here tonight by 10:30 or 11 o'clock and not be here on Monday.

Mr. EXON. May I have 30 seconds? I simply say that I will be glad to listen and look at anything that is presented to us. I simply point out to my colleagues that the points raised were the most serious, in my view, of the violations of the Byrd rule. We believe they are all valid points of order and the Parliamentarian has so told us.

We published a comprehensive list of all budget rule violations in yesterday's RECORD. This is no surprise deal.

I certainly say that I will look forward to hearing from your side and, as usual, take a careful look at your proposition.

LAUTENBERG MOTION TO COMMIT

Mr. EXON. The next motion would be by the Senator from New Jersey, Senator LAUTENBERG.

I yield to him the 30 seconds I have as part of my time for his disposition.

Mr. LAUTENBERG. This is to commit the bill to the Finance Committee with instructions to report back on an amendment that would expand the deductibility of expenses that occurred in connection with business that one conducts in one's moment.

In 1993, the Supreme Court decision drastically reduced the deductibility of items in connection with a home/office kind of business.

If one was a plumber or electrician or an accountant and operated out of home, they would lose their deductibility because their clients would not have visited the home.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, inserting provisions to expand the deductibility of expenses incurred in connection with the business use of one's home, and to offset the resulting costs by adjusting the corporate capital gains tax rate.

MOTION TO EXPAND THE HOME OFFICE DEDUCTION

Mr. LAUTENBERG. Mr. President, I rise today to offer a motion that would benefit home-based small business owners. My motion would send the Senate reconciliation bill back to the Committee on Finance and would instruct the committee to insert language expanding the home office deduction. For a relatively small sum, to be offset by a modification to the corporate capital gains tax rate, Congress can remedy a 2-year-old court holding that interpreted a section of our Tax Code too narrowly.

Under current law, a taxpayer may only obtain a home office deduction in one of the following ways: First, If the office is the principal place of business for a trade or business; second, if the office is a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or third, if the office is physically separate from the home. A 1993 Supreme Court holding interpreted the principal place of business too narrowly, thus effectively denying this deduction to taxpayers unless their offices were physically separate from their homes or unless their clients physically visited their offices.

This court decision, and the IRS's subsequent application of it, have prevented taxpayers from obtaining a deduction Congress intended them to have. The Government should not be providing a disincentive to those persons who have made the decision to work at home, a decision that was most likely based upon economic constraints and family considerations.

Women-owned businesses are being disproportionately hurt by this narrow interpretation of section 280A of our Tax Code. Women are more apt to work out of their homes than men and they should not be punished for choosing to work near their families. By voting for my motion, my colleagues will be sending a profamily message to their constituents.

Expanding this deduction would also help workers who have been displaced by corporate downsizing to remain in the work force and avoid welfare by defraying some of their startup costs should they decide to go into business for themselves. My motion would also benefit the elderly and persons with physical disabilities who want to work but for whom commuting to traditional offices is simply too difficult.

Mr. President, expanding the home office deduction was endorsed by the recently held White House Conference on Small Business, which had participants from every State. The Committee on Finance held a hearing on this matter in June and it has strong support in the small business community. Legislation was introduced earlier this year that would accomplish the same goal I am seeking today. I would ask unanimous consent that a letter written to the Majority Leader DOLE by dozens of small business groups supporting this goal be inserted into the RECORD. I strongly urge my colleagues on both sides of the aisle to support my motion.

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

APRIL 11, 1995.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The undersigned associations strongly urge you to cosponsor S. 327, the Home Office Deduction Act. The original sponsors of the bill are Senators ORRIN G. HATCH, MAX BAUCUS, CHARLES E. GRASSLEY, JAMES J. EXON, ROBERT J. KERREY, JOSEPH I. LIEBERMAN, BENNETT J. JOHNSON, and JOHN H. CHAFEE.

S. 327 will promote economic growth and help create prosperity for the nation's work force. It is designed to ameliorate the economic hardships caused by the 1993 U.S. Supreme Court decision in the *Commissioner* v. *Soliman* case.

Tens of thousands of persons stand to lose the home office deduction as a result of the *Soliman* decision; particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent sales persons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

S. 327 is an excellent response to the current spate of corporate downsizings which have resulted in the layoffs of tens of thousands of workers. They, like many other people, are now attempting to live the American dream by starting businesses out of their homes.

The bill shows a clear appreciation for the convenience offered American families by home-based businesses. A home-based business provides a spouse (including a single parent) the emotional benefits of taking care of his or her children at home while earning money at the same time. S. 327 also takes into account modern telecommunications equipment (such as personal computers, facsimile machines, and modems) which can make home-based business technologically competitive with any commercially leased space.

Thank you for considering cosponsoring S. 327. If you would like to cosponsor the bill, please call West Coulam (4-0134) of Senator Hatch's office.

Sincerely,

Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Home-Based Businesses.
American Society of Media Photographers.
American Society of Travel Agents.
American Veterinary Medical Association.
Associated Builders and Contractors, Inc.
Bureau of Wholesale Sales Representatives.
Communicating for Agriculture.
Communicating for Health Consumers.
Council of Fleet Specialists.
Direct Selling Association.
Family Research Council.
Home Office & Business Opportunities Association of California
Illinois Women's Economic Development Summit.
National Association for the Cottage Industry.
National Association for the Self-Employed.
National Association of Home Builders.
National Association of Private Enterprise.
National Association of the Remodeling Industry.
National Association of Women Business Owners.
National Electrical Manufacturers Representative Association.
National Federation of Independent Business.
National Small Business United.
National Society of Public Accountants.

Promotional Products Association International.
Retail Bakers of America.
Small Business Legislative Council.
SMC—"The Voice of Small Business."

Mr. DOMENICI. Mr. President, this would increase corporate tax rates from 28 to 32 percent in order to expand the deduction of home business expenses, and I believe it adds new language to the bill by way of the home-business expenses.

Therefore, it is subject to a point of order on germaneness. I raise that point under the Budget Act.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 39, nays 60, as follows:

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—39

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

NAYS—60

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

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 39, 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 point of order is sustained and the motion falls.

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

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

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3035

(Purpose: To delay for 2 years the repeal of the 50-percent interest exclusion for employee stock ownership plans)

Mr. EXON. The next amendment I have is an ESOP amendment that will be offered by the Senator from Illinois [Mr. SIMON]. I yield him the 30 seconds of our time for however he wishes to use it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer this amendment in behalf of Senator STEVENS, Senator BREAUX, and myself. The employee stock option plan——

The PRESIDING OFFICER. The Senator will suspend.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. STEVENS, and Mr. BREAUX, proposes an amendment numbered 3035.

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

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

The amendment is as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 seconds.

Mr. SIMON. Mr. President, I offer this in behalf of Senator STEVENS, Senator BREAUX, and myself. Our former colleague, Russell Long, helped to develop the employee stock option plan. Even the Chamber of Commerce says when it is enacted in companies, it increases productivity 3 to 17 percent.

What this bill does, without my amendment, it starts to strangle the ESOP's. CBO says it will cost $27 million. Let me just add——

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

Mr. SIMON. Not a single hearing has been had on this. This would just delay the date 2 years.

Mr. BINGAMAN. Mr. President, I rise today as a cosponsor and strong supporter of Senator SIMON's amendment to strike a provision ending favorable consideration for banks providing loans to employee stock ownership plans.

This provision, known as section 133, was originally put in place by Senator Long, when he was the honorable chairman of the Senate Finance Committee. It allows banks making loans for the establishment of employee stock ownership plans [ESOP's] to deduct half of the interest received from that loan from income. In practice, this provision has lowered the costs of establishing an ESOP, and thus expanded employee ownership. It is estimated that about 50 ESOP's are established in this manner each year.

Mr. President, I support the current provision because I support employee ownership. In a time when corporations are enjoying soaring profits and wages remain stagnant, employee ownership gives workers a means to share in the profits of their labor. In cases in which employee ownership is significant and in which voting rights are extended to employee owners, as required by section 133, it also can give workers an important voice in corporate decisions.

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1995 study by Douglas Kruse of Rutgers University, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn't we be doing everything we can to encourage corporations to be more competitive?

Beyond these substantive policy reasons for striking the anti-ESOP provision in this legislation, I believe that there are budgetary reasons for striking this language. Most notably, it is my understanding that the revenue estimates attached to this provision are grossly overstated. No hearings have been held on the provision or its revenue effects, and the ESOP Association has done an analysis showing the anticipated revenue is extremely unrealistic. I ask that a copy of that analysis be included at the conclusion of my remarks.

In summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.

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

THE ESOP ASSOCIATION,
Washington, DC, October 17, 1995.

To: Tax Staff of the U.S. Senate.
From: The ESOP Association.
Re incredible revenue estimate on repeal of ESOP provision.

The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.

Fact, the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.

Fact, at the highest, only 50 transactions a year since January 1, 1990, have used the tax incentive that is proposed to be repealed.

Fact, 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 10%, the interest paid on these loans is $25 million per year. The lender may exclude $12.5 million of this interest from its income

tax. The revenue loss to the Treasury is $3.5 million per year.

The revenue estimates that in the year FY '99, for example, that the revenue loss is $149 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be $8.6 billion per year! Never, ever, has the value of ESOP transactions where employees acquired 50% or more, and use borrowed money, come close to this level.

The ESOP community in its wildest dreams would wish that there were that many 50% plus ESOP transactions a year to justify such an estimate. Sadly for America there is not.

The ESOP Association knows how many transactions a year there are. Obviously those wishing to damage employee ownership are not informed as to the facts.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this amendment would lose $500 million over 7 years. It would chip away at the deficit reduction package of corporate welfare reforms and loophole closures. This is a big, big ESOP loophole.

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

Mr. DOMENICI. Whatever time we have we release.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the 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 to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—56

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

NAYS—42

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

NOT VOTING—1

Kassebaum

So the motion to lay on the table the amendment (No. 3035) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have now had 34 amendments considered today. And I have an amendment. I am going to ask to be permitted to yield to the Senator from West Virginia, and that he may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized for 10 minutes.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will please come to order. Senators will take their conversations to the Cloakroom.

The Senator from West Virginia.

Mr. BYRD. Mr. President, 31 years ago the Senate, on June 16, 1964, broke the record for the number of rollcall votes cast in one calendar day by casting 34 rollcall votes. I should say that the record number of votes in any one legislative day was made in 1977, when the Senate debated the Natural Gas Deregulation Act. There were 38 rollcall votes cast on that legislative day, 26 before midnight, and 12 after midnight, so that there were parts of 2 calendar days included in one legislative day. That was 38 total votes on one legislative day.

But for the record number of votes cast on any single calendar day, that occurred, as I say, on June 16, 1964. We are about to cast the 35th rollcall vote to occur in one calendar day—a new record.

Let me reminisce, if I just might, for a moment about that occasion.

June 16th was 3 days before the final action occurred on the Civil Rights Act of 1964. I filibustered against that bill. I spoke for 14 hours and 13 minutes. I was the only non-Southern Democrat to vote against the bill. Alan Bible of Nevada and Carl Hayden and I were the only three Non-Southern Democrats to vote against cloture on June 10.

Now, so that I might not impose on the time of the Senate, let me just read from Volume II of my history of the Senate.

"When the bill arrived from the House on February 26, 1964, it went directly to the Senate calendar." On March 9, Majority Leader Mike Mansfield moved to take up the bill, "and the motion was debated until March 26"—therefore, the debate on the motion to proceed required 17 days—"when the Senate voted, 67–17, for the motion [to proceed] . . . From March 26 [then, when the bill was first brought before the Senate, following the debate on the motion to proceed,] until cloture was invoked on June 10, the bill was before the Senate for a total of 77 days—including Saturdays, Sundays, and holidays—and was actually debated for 57 days, 6 of which were Saturdays. Still, the bill was not passed until 9 days after cloture was voted. Hence, 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, "and final passage on June 19."

That was a very historic occasion. The vote on cloture occurred on June 10, which was the 100th anniversary of Abraham Lincoln's nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now—not the subject matter at this point, but the procedural aspects.

On that occasion, we had one bill which was before the Senate. There had been hearings on that bill. There had been 17 days of debate on a motion to proceed to take the bill up. There had been 57 days of actual debate, including Saturdays. There had been scores of amendments offered thereon and cloture was finally invoked. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it, to my regret today. I have said that many times. But here we have a bill that has been before the Senate now 2 days—3 days; only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days; on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was nondebatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this. I am just concerned and discouraged by what we have seen taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—

one bill—to 20 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings by committees on parts of it, but no single committee had hearings on the whole bill, 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have had a very insufficient time for debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

I hope that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process dealing with the Budget Act. I was here when we adopted the Budget Act of 1974. I never comprehended, never could I have imagined that the reconciliation process would have been used as it is being used here, a reconciliation process in which we bring several bills into one massive bill, on which the time for debate is severely restricted. Cloture is nothing as compared with the time limitation on the reconciliation bill. Cloture is but a speck on the distant horizon as compared with this bear trap.

It is most unfortunate. I do not think it is in the best interests of the institution. I do not think it is in the best interests of the legislative process. I do not think it is in the best interests of the American people, because we Senators do not know—to a very considerable degree—what we are voting for. There is not a Senator in this body—not one—who knows everything that is in this bill. Not one. And so that is the situation we are in. It troubles me.

I thank the distinguished majority leader for asking that I be recognized for 10 minutes. It is a special honor for me to be able to offer the amendment on which the record will be broken. I regret that we had to break the record in a situation such as I have described, but it is an honor to me. This is a historic occasion. I lived on that occasion—Senator THURMOND, Senator PELL, Senator KENNEDY, Senator INOUYE, and I are the only Senators who were here when the 1964 record vote was cast.

I say to the leader, may I proceed with my amendment?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. I hope Senators will now provide the second historic occasion that will take place today. [Laughter.]

AMENDMENT NO. 2974

(Purpose: To strike the provisions in title XII reducing revenues)

Mr. BYRD. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. FEINGOLD, Mr. HOLLINGS, Mr. SIMON, Mr. DORGAN, Mr. ROBB, and Mr. BUMPERS, proposes an amendment numbered 2974.

On page 1469, strike beginning with line 1 and all that follows through page 1650, line 9.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, How can we possibly tell the American people that the budget will be balanced in 2002, even if we carry out the provisions of this reconciliation measure? CBO's deficit estimates have been off the mark by an average of $45 billion per year since 1980.

Yet, we are not only being asked to accept CBO's projections for seven years (as opposed to the usual five-year projections)—we are being asked to then take a so-called "fiscal dividend" that will occur if CBO's projections of a balanced budget turn out to be correct seven years down the road and to use that as the basis for enacting a huge $245 billion tax cut for the wealthy right now. Not later, after the budget is actually balanced, but now. Let us give Americans a tax cut now and promise them a balanced budget seven years from now. Why? Because it makes good politics. It fooled the American people in 1981. Why not do it to them again in 1995? If we are serious about balancing the budget, let us use the spending cuts that will occur this year and in the coming seven years to cut the deficit and only to cut the deficit. The current drag race that is going on between the administration and the Republican Congressional leadership to see who can get to the tax cut finish line first with the most is discouraging and will, I fear ultimately result in a repeat of the failures of Reaganomics—a return to using the American people's credit card to pay for never ending deficits.

There is no fiscal dividend with which to cut taxes. It is a hoax.

I urge Senators to reject the hoax by voting for the pending amendment which eliminates the $245 billion tax cut from this bill and applies the moneys to the deficit.

Mr. President, the amendment speaks for itself. It eliminates the tax cut in the bill and applies the savings that are projected—and we know how the projections have been in error so many times, and that is not to be critical of CBO—but it applies the savings to the deficit.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think everybody understands this amendment. It would strike all the tax cuts that were provided for children, those where we want to correct the marriage penalty and the like.

Let me suggest rather than talk about that, I say to Senator BYRD, your speech was eloquent, and I thank you for it. But I must suggest that you were part of putting this together, and we thank you for it, because if you had not helped us put this kind of process together, we could never change the country.

I guarantee you that if we did not have a reconciliation process, what we wanted to change would take 30 years. Any piece of this amendment could be subject to the exact same 69, 79, 89 days as that legislation, which the distinguished former majority leader brought to our attention. That is just too long to change things and turn things around.

So once a year, we get an opportunity to proceed to change the country and vote on very large, significant, substantial changes under the privilege of a reconciliation bill.

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

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for 1 additional minute.

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

Mr. DOMENICI. Mr. President, it is true this is not the cleanest of processes, and I submit a clear reading of the Budget Act, which, again, the Senator from West Virginia had a very big hand in drawing, that clearly it was intended that when you put a budget of the United States together, that the U.S. Congress would not avail itself of delaying tactics to implement it. As a matter of fact, the implementing of it to make it reconcile with the budget is from whence the word "reconciliation" comes.

So maybe it is being used for too many things, and maybe it is too difficult, and perhaps we ought to fix that process a bit. But I guarantee you, if you do not find something to take its place and abolish it, you will not change America in important matters for year after year after year.

I like the rules. But I think once a year you ought to comply with the budget of the United States and change the laws to change the country, to comply with the fiscal policy. That is why we are here. It is difficult. I am glad that I am chairman when we broke the record—I am not sure of that, although I am very pleased with the record. We won almost every vote and, for that, I thank the Republicans. I think they knew what they were voting about and for. Essentially, the truth of the matter is that we have no other way to get it done, as imperfect as it is. I yield the floor.

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

Mr. DOMENICI. I move to table the Byrd 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 to table.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 552 Leg.]

YEAS—53

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

NAYS—46

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

So the motion to lay on the table the amendment (No. 2974) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 15 seconds out of order.

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

Mr. BYRD. A little earlier I stated that Senator THURMOND and I were the only two Senators who voted on June 16, 1964, and I inadvertently overlooked Mr. PELL who was here, Mr. KENNEDY, and Mr. INOUYE. Those three Senators also were here on that record date.

I thank the Chair.

Mr. EXON. Mr. President, when the vote was announced on the last amendment, was that reconsidered and tabled?

The PRESIDING OFFICER (Mr. STEVENS). It was.

Mr. EXON. As near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

The three amendments upcoming are the Wellstone amendment, then the Exon amendment with regard to the violations of the Byrd rules, and then the Finance package. So I think we only have three with the possibility of one more.

At this time, then, to move along, I suggest that we recognize the Senator from Minnesota, who has an amendment to offer. I yield him the 30 seconds off of our bill.

AMENDMENT NO. 3036

(Purpose: To strike the deep water regulatory relief provision for a number of reasons, including: (1) although the provision is estimated to save $130 million over seven years, the Congressional Budget Office estimates that the provision will cost the Treasury $550 million in lost receipts over the next 25 years, leading to a net loss of $420 million; (2) the provision provides yet another unneeded subsidy for the oil and gas industry, which was described by the Wall Street Journal on October 24, 1995 as experiencing a "Gush of Profits", and by Business Week in the October 30, 1995 issue as benefiting from new technologies that cut the cost of deep-water drilling; and (3) a short-term savings of $130 million over seven years does not justify the ultimate giveaway of $420 million over 25 years)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], proposes an amendment numbered 3036.

Mr. WELLSTONE. 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 sections 5930, 5931, and 5932.

Mr. WELLSTONE. Mr. President, this amendment knocks out what is euphemistically called the deep water royalty relief. It in fact is probably the most brazen subsidy that goes to oil companies that are doing very well. So well, Mr. President, that in the House of Representatives, 261 Representatives voted against this—100 Republicans.

That is why it got put in reconciliation. That is why somehow it wound up in this reconciliation bill. It ought to be knocked out.

This is not public interest. This is special interest. It is brazen. It is really a scandalous subsidy when we are asking all sorts of citizens to tighten their belt. I hope we will vote to knock this out.

Mr. DOMENICI. I yield our time to Senator JOHNSTON of Louisiana.

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central gulf which would otherwise not be produced.

Need I remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Secretary who has never been known as being in the pocket of the oil companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter backing this be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, October 19, 1995.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plan, "Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy" in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, "the Nation must make the most efficient us of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources." (page 33) In furtherance of this objective, "The Administration's policy is to improve the economics of domestic oil production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices." (page 35) One of the ways indicated to lower these costs is, "providing appropriate tax and other fiscal incentives to support our domestic energy resource industries." (page 34) Finally, the "Strategy" specifically targets the opportunities in the Gulf of Mexico.

"One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a key to timely access to this important resource. The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industries. (emphasis in original, page 36)"

The royalty relief provision in S. 395 as adopted by the conference committee is a targeted, deepwater royalty relief provision that the Administration supports. For existing leases, it targets relief for only those leases that would not be economic to develop without the relief. For new leases, the provision is targeted for a specific time period for only a specific number of barrels of production, and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing under section 304 of S. 395. For lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have

been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account. However, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again taking into account the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable marginally viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

HAZEL R. O'LEARY.

REVENUE IMPACT OF DEEP WATER ROYALTY RELIEF

MMS estimates—(In millions of dollars)

	Nominal dollars		Present value		Interest saved by retiring $200 mil. of debt by 2000
	Increased bonus revenues	Foregone royalties	Bonus revenues	Foregone royalties	
1996	97		97		
1997	97		90		
1998	97		83		
1999	97		77		
2000	97		71		
2001		(2.4)		(1.6)	16
2002		(7.1)		(4.5)	17
2003		(16.4)		(9.6)	19
2004		(29.6)		(16.0)	20
2005		(44.4)		(22.2)	22
2006		(57.4)		(26.6)	24
2007		(65.7)		(28.2)	25
2008		(67.2)		(26.7)	27
2009		(62.6)		(23.0)	30
2010		(54.8)		(18.7)	32
2011		(44.1)		(13.9)	35
2012		(34.9)		(10.2)	37
2013		(25.8)		(7.0)	40
2014		(18.5)		(4.6)	44
2015		(11.5)		(2.7)	47
2016		(6.7)		(1.4)	51
2017		(2.9)		(0.6)	55
2018		(1.3)		(0.2)	59
Total	485	(553)	418	(218)	599

Present Value: 8% discount rate.

The present value of a stream of revenues is the amount of current dollars that would have to be invested in a risk-free asset in order to end up with the same stream of dollars in future years. If the government were to invest $218 million in T-bonds, it could draw down the investment each year between 2001 and 2018 to offset the foregone royalties in that year. The government would still have $200 million left for deficit reduction in the five-year budget. (This is comparable to an individual planning for reduced income in retirement by investing in an annuity to replace the lost income in the future.)

To analyze fully the impact on the Treasury over 25 years, the impact of reducing the debt by $200 million has to be included. By the year 2018, the taxpayers would be ahead by an additional $599 million, the amount of interest that would not have to be paid to finance $200 million of debt from 2000 to 2018.

If you have any question, contact Shirley Neff.

Mr. JOHNSTON. It raised $200 million for the Treasury, according to the Mineral Management Service, which that report shows. It is supported by the administration.

It is necessary to meet our target, and it came out of the Energy Committee by 17 to 2.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation. I raise a point of order against it pursuant to the Budget Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted— yeas 28, nays 71, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—28

Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bryan	Jeffords	Pell
Bumpers	Kennedy	Pryor
Byrd	Kerry	Sarbanes
Cohen	Kohl	Simon
Dodd	Lautenberg	Snowe
Feingold	Leahy	Wellstone
Glenn	Levin	
Graham	Lieberman	

NAYS—71

Abraham	Daschle	Hutchison
Akaka	DeWine	Inhofe
Ashcroft	Dole	Inouye
Baucus	Domenici	Johnston
Bennett	Dorgan	Kassebaum
Biden	Exon	Kempthorne
Bingaman	Faircloth	Kerrey
Bond	Feinstein	Kyl
Breaux	Ford	Lott
Brown	Frist	Lugar
Burns	Gorton	Mack
Campbell	Gramm	McCain
Chafee	Grams	McConnell
Coats	Grassley	Mikulski
Cochran	Gregg	Moseley-Braun
Conrad	Hatch	Murkowski
Coverdell	Hatfield	Nickles
Craig	Heflin	Nunn
D'Amato	Helms	Pressler
Reid	Shelby	Thomas
Robb	Simpson	Thompson
Rockefeller	Smith	Thurmond
Roth	Specter	Warner
Santorum	Stevens	

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule.

I wonder if we might proceed on the Finance Committee amendment. Senator ROTH I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday's unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of our colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to an hour equally divided?

Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3037

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D'Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 3037.

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:

On page 187, line 3, and on page 187, line 22, strike "5" and insert "10."

Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 3037) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, buried in this gigantic reconciliation bill is a provision, Section 12874, that would amend a carefully wrought bipartisan measure enacted in 1992 to protect the health benefits promised to retired coal miners and their dependents. This provision would jeopardize these health benefits and put the 92,000 retired miners and their dependents at risk. I understand this provision was added at the last minute and is a modification of a bill, S. 878, which has not been the subject of hearings by the Finance Committee. Hiding this provision, that has not received careful review or consideration, in a 1,949-page bill is an outrage.

Section 12874 represents a major policy change that would overturn existing statute and case law in order to provide a two-year tax break to a select group of coal companies at the expense of other coal companies. In so doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego these premiums for 2 years.

According to the Congressional Budget Office (CBO), over the 7-year period, 1996–2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of section 313(b)(1)(D) of the Congressional Budget Act of 1974, which reads as follows:

A provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd rule, Mr. President, this provision is just bad policy.

The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation put miners' health benefits in jeopardy. The Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners' health benefits have a unique history in that the Federal Government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners' health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to reachback companies, those companies that were not signatories to the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be reduced by 10 percent of benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a shortfall in the Fund occurs, all companies' premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next 10 years. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the goal of policy change. In addition, this provision does not adequately safeguard the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. I hope that the Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time?

There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order.

AMENDMENT NO. 3038

(Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

It is very difficult for the Chair to hear even. If the staff does not stay quiet, we will order that the staff be removed.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Parliamentary inquiry. Are we about to debate the Finance Committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And how much time is there on that?

The PRESIDING OFFICER. There is 1 hour equally divided.

Mr. BUMPERS. I wonder if we could get the people who are speaking on it to tell us whether they are going use the entire hour or not.

The PRESIDING OFFICER. The Chair does not think that is a parliamentary inquiry. I do not think that is within the province of the Chair, to demand in advance whether time will be used.

Mr. BUMPERS. Would I be within my rights to ask the distinguished chairman of the Finance Committee how much time he intends to take?

The PRESIDING OFFICER. Will the Senator yield for a question?

Will the Senator from Nebraska yield for a question? The Senator from Arkansas has a question.

Mr. BUMPERS. The question is, how much time does the Senator from Nebraska intend to use, if he knows?

Mr. EXON. Is the Senator asking about the half-hour time?

Mr. BUMPERS. Yes.

Mr. EXON. I will try to allocate the time as best I can.

I just have had a brief meeting with the Senator from Florida, who said he would wish to begin debate. He asked for more time. I said I will have to be a tough traffic cop. We have a half an hour. I have agreed to give 10 minutes to the Senator from Florida. I will allot the rest of the time as we can. Anybody who wishes to speak on this, I wish they would come over and visit with me about it, and I will try to accommodate as many Senators as possible.

Mr. BUMPERS. I am not asking for time. I am curious whether or not we are going to be here for another hour before we vote.

Mr. EXON. There will be at least another hour before we vote.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 3038.

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

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

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

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now, until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1994 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator suspend?

Would the Senators take their conversations off the floor, please?

Mr. ROTH. The——

The PRESIDING OFFICER. Will the Senator suspend? The Chair will start naming names. Please take the conversations off the floor.

Mr. THURMOND. That is right.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he is supportive of these changes. The modification would reduce the costly and duplicate requirement that States perform preadmission screening and annual resident review. In addition, a modification to the nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicare-Medicaid integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount States must spend must be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And, fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. DOMENICI. I yield 2 additional minutes.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1993 spending minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1996. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the growth ceilings in future years. States would be able to carry over a credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 2116 of the bill limiting causes of action under Federal law.

Finally, the provisions in this amendment are paid for by adopting the 2.6 percent cost-of-living adjustment recently——

Thirty seconds?

Mr. DOMENICI. Fine.

Mr. ROTH. Recently announced by the administration for 1996 for programs under the Finance Committee's jurisdiction that are updated by the CPI-W. The CBO baseline assumes the CPI-W would be 3.1 percent.

Mr. DOLE. I seek a clarification from my colleague, the esteemed chairman of the Finance Committee, Mr. ROTH. It is my understanding that, in making these revolutionary and necessary changes to the Medicare program to preserve it for our Nation's seniors, we are concerned about the effects these changes may have on inner-city access to health care services. It is my understanding that it is the Finance Committee's intention to have ProPAC study the effects of these changes on the access and quality of care to the Medicare beneficiaries served by the Nation's urban hospitals who serve large numbers of Medicare patients. I understand from the chairman that whatever changes do occur in the Medicare Program, it is in the best interests of this Nation to ensure the health and financial viability of these inner-city hospitals so as not to undermine the health of the residents in those urban areas.

Mr. ROTH. The Senator, my good friend from Kansas, is correct. I share

his concern for residents of the inner cities across the country. The Finance Committee does indeed intend for ProPAC to study the effects of these changes on inner-city hospitals that provide the access to care for those areas.

Mr. DOLE. It is, therefore, my understanding that the chairman of the Finance Committee intends to continue to address these concerns during the House-Senate conference by including language which would require ProPAC's annual report to Congress to include recommendations to ensure that beneficiaries served by the Nation's urban hospitals would maintain access and quality of care.

In designing the study we would hope that ProPAC would also include recommendations on those hospitals that serve large populations of both Medicare and Medicaid patients.

Mr. ROTH. The Senator is correct. As part of the Senate Finance Committee's deliberation with the House on the Medicare provisions of the conference, we intend to request, and ultimately, include that requirement in ProPAC's annual report to Congress.

Mr. DOLE. I thank the chairman for his clarification and for sharing my concern about the health and well-being of our inner-city residents and the hospitals that serve their needs.

OREGON HEALTH PLAN

Mr. HATFIELD. Will my colleague from Delaware yield for the purpose of entering into a colloquy?

Mr. ROTH. I would be happy to yield to the Senator from Oregon.

Mr. HATFIELD. It is my understanding that additional funds have been made available and added to the Medicaid Program. As a result, Oregon will receive more funding during the 7 year budget period than originally expected under the Senate formula.

Mr. ROTH. That is correct.

Mr. HATFIELD. As my colleague knows, Oregon is currently in the middle of a 5-year Medicaid demonstration project known as the Oregon Health Plan which began in 1994. This plan has had an enormous effect on improving access to basic health care to low-income Oregonians. As a result of the cuts to Medicaid funding included in the original Finance Committee proposal, Oregon's ability to carry out this innovative plan was threatened. Is it your understanding that under the new Senate Medicaid formula, Oregon will receive more money than the State estimates it will need during the years 1996 through 1999 to operate the Oregon Health Plan under its current Medicaid waiver?

Mr. ROTH. Yes.

Mr. HATFIELD. I want to thank the Senator from Delaware and your staff for your assistance in ensuring that Oregon will be able to continue its innovative experiment. I truly believe other States can learn from Oregon's experience, and you have helped to guarantee that this will happen.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

Mr. President, could I seek 1 minute from the manager?

Mr. DOMENICI. Indeed. I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I rise in support of this landmark Medicare reform provision, S. 1357, the Balanced Budget Reconciliation Act of 1995. For the first time in the 30-year history of the Medicare program, Congress is preparing to give the Nation's 38 million elderly and disabled Medicare beneficiaries the opportunity to play a greater role in the design of their health benefits. That opportunity is the Medicare Choice program.

Largely because of its status as a government program, Medicare has fallen behind the times. When it was established in 1965, Medicare was based on the prevailing private sector indemnity health insurance plan—what we have come to know as fee-for-service.

For the first 15 years or so, there was little change in the utilization of American health care, but beginning in the late 1970's, health care price inflation began to skyrocket. Within a decade, American employers were staggering under the weight of rising health care costs. It is important to remember, as well, that by far, health care costs were fully carried by employers.

By the early 1980's we began to see the advent of managed care. Basically, the American business community demanded a more affordable health insurance product, and the insurance industry responded. The best company plans were and remain those which were able to offer a choice of coverage to their employees, not unlike the manner in which the Federal Government does today in the Federal Employee Health Benefit Plan (FEHBP).

Meanwhile, in 1983, the Medicare Program also abandoned traditional cost-based reimbursement and replaced it with what we have come to know as the prospective payment system. The Health Care Financing Administration at the Department of Health and Human Services devised a special payment for every medical procedure in advance and, in general, that was all Medicare would pay. It was and is the biggest and most expensive health care regulatory system in America.

The problem we face today is that Medicare is going broke. The pre-set payments we put into place in 1983 were based on a measure of private health care costs which have continued to rise at a rate beyond any other sector of the economy. Furthermore, Americans are getting older—more beneficiaries with fewer and fewer workers paying the FICA taxes that maintain the Hospitalization Insurance [HI] trust fund.

The combination of these conditions, together with the never dreamed of costs of medical high technology, have worked to undermine the financial strength of Medicare. The major hospitalization fund goes into deficit in just a very few years, and is projected to use up whatever surplus we have accumulated by the year 2002.

So what should be our policy? The first priority is to secure the future of the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2010. Our plan is to limit or cap the built-in automatic growth of the program which, as I mentioned, has been based on medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than letting the program grow, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown by 52 percent to $239.6 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. This is growth, Mr. President, not cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much, much work has gone in to determining our course. Should we pursue another top-down big government strategy as we did in 1983, or should we return to the roots of the program and follow the private sector.

As I said before, the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health insurance options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to maintain and improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to change. We therefore guarantee their No. 1 option to stay in the present system. Furthermore, we guarantee that their share of the principal expense of the program—the part B premium—will be maintained at 31 percent of program costs. The U.S. Treasury pays for 69 percent of Medicare part B today, and it will as well in the year 2002.

Medicare is not a bargain. Beneficiaries today are asked to pay for 20

percent of doctor visits. The program does not pay for prescription drugs. Millions of beneficiaries have had to purchase medigap insurance at further costs to pay for what Medicare does not.

We will offer a selection of managed care options which can be far more affordable for older Americans living on fixed incomes. These will be options for beneficiaries to study and discuss with their families to see if they would in fact present a better health care choice than the standard plan. Beneficiaries will be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan.

Perhaps the most innovative option will be access to newly available medical savings accounts [MSA's].

In my State of Virginia, which has a reputation for fiscal conservatism, MSA's have prompted a great deal of interest and support by doctors and patients alike.

Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital.

The beneficiary would then be given an annual Medicare allotment, in this scenario, of $1,500 a year which they could use to directly pay for physician visits, prescription drugs or even new eyeglasses. There would be no redtape between the doctor and the patient, no burdensome insurance forms, no lengthy waits for reimbursement. Beneficiaries could even use a simple debit card to pay for care directly from their MSA.

Moneys not utilized by the end of the year could be rolled over to the next, without tax consequences, or withdrawn as taxable income for personal use. The only possible out-of-pocket expense, as compared with the copayments and Medigap insurance used by current beneficiaries, would be that measure of $1,500 between the MSA and the catastrophic plan. If the beneficiary chooses to save his or her unused MSA funds, as many thrifty Americans will no doubt do, the $1,500 amount could easily be accumulated in the MSA in just a few years.

While an MSA will not be suitable for everyone, I believe it can have a real impact on the medical marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers will want their business. With the prospect of no Medicare redtape, I imagine that doctors will jump at the chance to care for MSA beneficiaries.

Mr. President, we are veritably on the brink of a new day in Medicare. We hope to restore long-term solvency to the program by curtailing exorbitant growth, and open the door for beneficiaries to the modern health care marketplace. Millions of Medicare beneficiaries are already educated consumers, and it is my great hope that they will lead the way in demonstrating the value of Medicare choice.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, to start out the debate, we will yield 5 minutes to Senator ROCKEFELLER. Following that, depending on the flow of business, I intend to, at my discretion, allow 5 minutes to Senator PRYOR, 4 minutes to Senator KENNEDY, 3 minutes to Senator WELLSTONE, and then the closing arguments will be made by Senator GRAHAM from Florida.

So, at this time I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from Nebraska and the Presiding Officer.

Mr. President, I find it noteworthy that sometime very recently all of a sudden we get 46 pages of actual legislative language, the manager's amendment. I guess we should be grateful for small deeds. The amendment magically comes up with about $10 billion. We believe there is a very good chance that comes from Social Security, which is most interesting, for more Medicare aid, more Medicaid money, parcels it out to various health care institutions, HMO's, et cetera.

I think there are a number of reasons to reject this bill, which will be my recommendation. One, to protest what is underneath this amendment, a bill that will cut Medicare and Medicaid by unprecedented amounts of money. No last-minute amendments by the managers are going to soften the blow of this combination of Medicaid and Medicare cuts put together. It is a stunning—a stunning—cut.

I think we have to question how all of a sudden this new money appeared. I suspect it came from Social Security. But we will hear more about that. HMO's, nursing homes, got money. Different people were accommodated. We had that process a little bit in the House, and it was not generally given very high marks.

I find it, again, amazing that money is falling from the sky to satisfy different folks, and yet these are the same folks who said $270 billion in cuts for Medicare, for example, was the only possible way to save Medicare.

So before yielding to three other Senators, I will say, where did all this money come from, and is it from Social Security, for example? Or is it from some other place?

There is a very bizarre formula for Medicaid in which I think the Republican States somehow end up doing much better than the Democratic States, but I may be wrong on that. Senator GRAHAM will speak on that.

Also, the amendment weakens the nursing home standards, a subject which is incredibly important to me. The Senator from Arkansas will speak on that subject.

At this point, with the permission of the Senator from Nebraska, I suggest that we go to the Senator from Arkansas, if that is all right with the Senator from Nebraska.

The PRESIDING OFFICER. The Senator does not wish to use his time.

Mr. EXON. Yes, I wish to use my time.

I yield 5 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to restore the OBRA 1987 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, with all due respect to the distinguished manager's amendment that we now have before the Senate, even though the distinguished manager says we are fixing or even improving upon current Federal nursing home standards, over the course of today I have been in contact with numerous consumer groups and nursing home reform advocates who are extremely critical of the language offered in the so-called manager's amendment.

First, this so-called "fix" does not indicate in any way the length of time for which a State could operate under a waiver and opt out of the Federal standards. Would the waiver last for 1 month where there would be no Federal standards applying to a nursing home or to a State? Would the waiver be for 1 year or 2 years or 10 years? There is nothing in the amendment to address this issue. Basic question.

Also, in the manager's amendment, there is absolutely no guidance whatsoever as to how the Director of HCFA or HHS would determine that a state's standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting making that determination.

Also, Mr. President, there is a major flaw in this amendment, I say with all due respect. I am just wondering if the distinguished manager knows that under this particular proposal that unless the Federal Government revokes a State's waiver, it could take—I repeat this—the Federal Government could take no action whatsoever against an individual facility, no matter what was going on in a particular nursing home.

No action whatsoever means that the Federal Government's hands are tied, notwithstanding the fact that we are appropriating billions and billions and billions of dollars for the safety and well-keeping of the some 2 million nursing home residents out there in our country.

The very worst facilities in America could be getting away with just about anything, and the Federal Government would have absolutely no power, no recourse, no opportunity to go in and correct the wrongs in a particular home, simply because the State would have a waiver from Federal regulations and all of the Federal involvement allowing it.

Also—and finally, Mr. President—the Roth amendment provides a 120-day period during which the Secretary must review a State's waiver proposal to make sure that it contains all the essential elements, which would be insufficient time to go out and investigate that State's nursing homes or a particular nursing home.

This timeframe, 120 days, to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Let me say once again that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked well. I do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that we will make certain that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will follow in the decades to come.

Mr. President, I yield the floor.

CHANGE OF VOTE

Mr. REID. Mr. President, I have a unanimous consent request.

On rollcall vote No. 553, I voted "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to address the fundamental problem. This Republican program slashes Medicare and Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweetheart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strong standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors, vote against children, vote against families and, in return, we will rig the Medicaid formula so the disaster in your State is not quite as bad as in some other State. Like the underlying bill, this amendment was put together in the dark of night, and no wonder there is nothing to be proud of here.

The issue is clear: Who stands for senior citizens; who stands for working families; who stands for children; and who stands for the special interests against the interests of the Americans who work so hard to support their families, educate their children and build this country?

This amendment is a disgrace, and it does not deserve to be adopted. The underlying bill is an outrage. It deserves to be rejected by the Senate, vetoed by the President and condemned by the American people. Greed is not a family value.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. What is the status of the time, Mr. President?

The PRESIDING OFFICER. The majority has 21 minutes, 45 seconds; the minority has 19 minutes, 46 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator D'AMATO. How much would Senator COHEN like? And 5 minutes to Senator COHEN, in that sequence.

The PRESIDING OFFICER. Senator D'AMATO is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I want to commend the manager and all those who have helped us come so far on this historic occasion.

Senator DOMENICI and Senator ROTH have done an incredible job. I believe some of us have done a rather poor job of letting the American people know exactly what is in this package. If you listen to some of the demagoguery that we hear about "greed" and "special interests," and "tax breaks for the wealthy," you would not really know what is in this package.

When I hear this business that "they are weakening nursing home standards," that is nonsense. Bull. I want to know how we can weaken nursing home standards when you must meet the Federal levels that you have today. You must have at least that or better. If that is not demagoguery, I do not know what is.

It is out and out fear and deception that is being practiced. When 90 percent of the tax cuts go to families earning under $100,000, I defy you to tell me that that is going to the wealthy. Let me be a little more particular: $141 billion in tax cuts goes to families that have children. Those families have to earn under $110,000. The bulk of that goes to families in the $50,000 to $60,000 range. Now, let us stop the nonsense about greed and wealthy people. That is working middle-class families.

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

Mr. DOMENICI. I yield another minute to the Senator from New York.

Mr. D'AMATO. We are attempting to keep the promise that was broken by the President of the United States when he said, "We are going to give tax cuts to the middle class." Then he went and raised those taxes. And now he says, "Well, maybe I made a mistake."

Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing something about the marriage penalty. We always complained about that. There has not been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for the interest.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan fingerpointing. Democrats accuse Republicans of ravaging Medicare, while Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that the Medicare hospital trust fund is going broke, and spending for Medicare part B—the optional program that covers seniors' doctor bills—is increasing at an unsustainable rate. Reasonable minds may disagree on how to resolve the looming crisis. But we cannot take the easy route and pretend to senior citizens—or Medicare providers—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to

the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings will be sufficient to "fix" Medicare, and that the $270 billion in savings proposed in this bill cut too far and too deep.

What the Democrats have proposed would certainly be more politically palatable. But their proposal falls far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $309 billion in the red. It will be difficult enough to cope with this tidal wave of retirees when Medicare is solvent. It will be impossible if the program is over $300 billion short.

Under Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries more choice. The "Medicare Choice" plan contained in the bill closely resembles the Federal Employee Health Benefit program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then be able to elect to remain in the traditional fee-for-service plan or they can choose from a variety of other insurance options, such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, an "affluence test" that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program.

Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for upper-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000.

I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than four times as much. Further, the vast majority of Medicare beneficiaries will be unaffected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the "affluence test" threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by flowing back a portion of fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield over $4 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest growing entitlement programs. Over the past few years, Medicare spending has increased at an alarming rate. Between 1988 and 1993, program costs have more than doubled. From 1990 to 1992, Medicaid grew at an average annual rate of 28 percent, while private health care and Medicare costs grew at less than one half that rate.

The current growth in Medicaid spending clearly cannot be sustained by either Federal or State budgets. In Maine, 22 cents out of every dollar spent by the State goes to pay for Medicaid, and next year, it may be even more. We simply cannot sit back and watch the program consumer get bigger and bigger bites out of the taxpayer dollar each year.

Under this budget plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate in 1996, 6.8 percent in 1997, and 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of strings.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years toward the Medicaid program.

Therefore, I worked to ensure that guarantees of coverage for low-income children, pregnant women and the disabled—including the disabled elderly—were included in the final package. I am pleased that the bill as amended by the Senate includes provisions to provide these minimum guarantees to our vulnerable citziens.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicaid beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation. The Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation takes a big step forward in creating incentives for older Americans and their families to plan for future long-term care expenses and removes tax barriers that stifle the private long-term care insurance market.

As Chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long term care.

Sadly, many families are under the erroneous impression that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long nursing home stays and extended home care services must be paid for out-of-pocket.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term

care insurance policies so quality products will be affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

In addition to providing better access to long-term care services, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a maze of complex and often incompatible policies and rules.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced and cost-effective acute and long-term care delivery system. These projects will help States develop ways to better manage the care of high cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in a nursing home is one of the most agonizing decisions a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, continues to haunt families nationwide. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members and expert witnesses convinced me more than ever that the Federal Government must continue a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overdrugged, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of one nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest practicable physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards, following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that states include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill gives nursing home residents and families peace of mind that their rights are protected and that the Federal Government will be ensuring States continue to enforce quality standards for nursing home care.

The bill provides for states to receive waivers from the Federal nursing home reform law only in tightly crafted circumstances. Specifically, a State may apply for a waiver of standards only if its standards are equal to or more stringent than the Federal requirements. The amendment clearly indicates that no such waiver is allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that this package includes many important steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments and worked to incorporate provisions aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issues raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to get passed. We held a hearing this week in the Aging Committee in which we, once again, reaffirmed the need and saw the need to maintain strong Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate, understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad, bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night midnight trying to work out the language.

So I just want to assure my colleagues on the other side, this is not something that has been concocted in the dark of the night in order to weaken what was done this morning. I supported strongly what was done this morning.

This particular measure reaffirms the need to have OBRA 87 standards. We want the nursing home reform standards we passed in 1987. We finally started to get the civil monetary penalties imposed as of July of this year. We finally have some bite into those standards. I do not want to see those thrown overboard.

I said to my colleagues on this side of the aisle that we need these standards. Let us reaffirm our support for them. Let us reinsert OBRA 87, as such, and we can make some changes in some of the paperwork and the burdens that the nursing home industry has complained to us about.

I think my colleague from Arkansas will agree that we have had these complaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too costly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am concerned.

The one apprehension I had is in the point raised by my friend from Arkansas; that is, "If States show that they have standards equal to or greater than. . ."—I saw that as a red flag and said, wait a minute, I do not want to create that much of an exemption. I am not sure where the enforcement is going to lie.

I worked very hard late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come forward, as they have not in the past, and raise their standards to those at the Federal level, if they can establish that, and if they can satisfy the Secretary of Health and Human Services that they have done that, that does not mean they are free and clear to go forward and then abuse their patients. I insisted that the Federal Government still retain oversight and still retain enforcement responsibilities.

I believe that is in the law itself, in the language—that the Federal Government would still have the ability to go in to find out if there are violations and to enforce penalties. I know my colleague from Arkansas disagrees with that interpretation. But that is specifically what we worked out last evening. I believe that is in the language itself. I will yield to my friend if he has a question.

Mr. PRYOR. If my good friend from Maine, who has worked very hard on this bill, would point out where in this language it says that after a State receives a waiver—where in the world the Senator might even infer that the Federal Government would have an opportunity to impose fines, penalties, or to have any jurisdiction on individual facilities? In fact, if I might, on page 37, it says, ". . . State oversight and enforcement authority over nursing facilities," not Federal.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes, equally divided between the two Senators to respond.

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

Mr. KENNEDY. I ask unanimous consent for 2 more minutes so that the Senators can respond.

Mr. DOMENICI. Mr. President, I yield an additional minute to Senator COHEN.

Mr. COHEN. If you look on page 38 under section (D):

> No Waiver of Enforcement. A State granted a waiver under subparagraph (A) shall be subject to (i) the penalty described in subsection (b); (ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the enforcement provisions here. The Federal Government retains the authority to go in and impose those penalties. Were that not in there, I would not be supporting this.

Let me say one other thing to my colleagues. As I indicated before, the House has no such protection. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that action—that we are going to be in a much stronger position with a majority endorsing what we are doing here and going to the conferees and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

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

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

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sections preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—and it could be 30 days or 30 years; who knows?—but if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State, the Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has this jurisdiction.

I am trying to impress upon my friend that, he not knowingly, not willingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not think we should be voting on this amendment.

In the last several hours, my State of Minnesota just discovered that it will be faced with $500 million more in reductions on top of the $2.4 billion. What happened, Senators, in the last several hours? What kind of decision-making process is this?

It does seem to me that people in Minnesota and across this country have a right to know what in the world is going on here. These are the lives of our children—they are covered. These are the lives of elderly people, nursing homes—they are covered. These are the lives of people with disabilities—they are covered.

We should not even be voting tonight. This is back-room deals. This is not a democratic—with a small "d"—process.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Nebraska.

I have listened carefully to the debate this evening, but I think the simple fact is that no State in the Union is impacted by this amendment and this bill to the extent that California is.

Senator ROCKEFELLER asked earlier where the money comes from to pay for this amendment. Mr. President, I'll tell you where the money comes from.

$4.2 billion of it comes from Medicaid that in the earlier version went to California. California is the biggest loser in this amendment. This will affect more than 8.6 million people in the State of California.

This bill, I believe, is immoral, egregious, and in my 2½ years I never thought I would stand here on the floor of the Senate and see the largest State in the Union treated the way it is in this bill.

The PRESIDING OFFICER. The majority has 12 minutes and 32 seconds remaining, and the Democrats have 16 minutes and 32 seconds.

Mr. EXON. Mr. President, in the time that I have remaining, I wish to allocate 2 additional minutes whenever he wishes to use it to the Senator from West Virginia, and I yield 12 minutes to the Senator from Florida for use whenever he thinks appropriate.

Mr. GRAHAM. Mr. President, when Harry Truman was running for President in 1948, at one of his whistle stops the people cried out, "Give 'em hell, Harry." He said, "Friend, I don't have to give them hell. I just tell them the truth and the truth gives them hell."

That is what we are talking about tonight. The truth gives them hell.

We have heard from Senator PRYOR what this does to rape the standards that have made life tolerable for hundreds of thousands of persons—our most vulnerable people—in nursing homes.

Let me talk about two other features of this bill. Let me talk about how we are going to allocate over $770 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions were made.

There is no rationale to the allocation formula which is in this bill. I have been asking for better than 36 hours to get the legislative language. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention, if you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11, it says, "Additional Amounts Described. The additional amounts described in this paragraph are as follows," these are additional amounts that go to States just because they are the States.

Arizona gets $63 million; Florida gets $250 million, thank you; Georgia gets $34 million; Kentucky, $76.5 million; South Carolina, $181 million; the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $50 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is being used.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators, they gained $11.222 billion.

That is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now, how did we arrive at these absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate share.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970's and 1980's theoretically to make up for the hospitals that had a high incidence of poor and underserved populations. That became the fastest growing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion; by 1992, it had gone to $17.4 billion.

Why had we seen this enormous increase? We had seen the enormous increase according to a GAO report, General Accounting Office report, dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increased Federal spending, increased funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that previous predatory action. We have now taken all of the constraints off. We have now said that a State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President, that may be surprising. The GAO did a report, a special report, on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President, $6.5 billion. They got almost 2 out of every 3 new dollars that went to those States which have been identified as the principal perverters of the system.

What kind of policy is that? We are going to reward and benefit those States which have been ripping off the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I would say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that how we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been reported, leave everything else in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than a 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this cost of living because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and other Federal retirement programs—who are going to have their money used as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated—this is Paul Van de Water, who is the Assistant Director for Budget of the Congressional Budget Office. He states that the Congressional Budget Office and the Office of Management and Budget "do not score savings for legislating a COLA that would happen anyway under current law. This rule was applied to veterans compensation in 1991 and to food stamps in 1992."

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van de Water goes on to say that:

> At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance . . .

Friends, listen to this sentence.

> . . . if we were to include all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit . . . would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when the Congressional Budget Office said, if they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we kept asking, Can we see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get any answer. Sorry, it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gall to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are cutting their Medicare. We are eliminating other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion which does not exist, which is going to add further to the deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.

My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look and appreciate the details.

Mr. President, fellow colleagues, the answer tonight is a simple answer; that is, to defeat this amendment. As bad as the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least

send the conference something that we in the Senate can have some degree of satisfaction as it is taken up in conference.

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

Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators.

Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes when we have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side over and over again.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We have already established in the United States of America that the Consumer Price Index is not 3.1 percent, but, rather, 2.6 percent. We are not talking about 3 years from now. We are talking about right now. It is not 3.1, as estimated in this budget. It is 2.6. The reality is that is not going to change. It is 2.6 for the rest of the year. It just happens, if you do the numbers, that saves $13.1 billion. That means $13.1 billion less is being spent because of the real Consumer Price Index—not speculation and not changing anything. That is where you get $13.1 billion.

The reason we only use $13.1 billion is because we did not want to use the tax revenues and spend them. We left them there. So we only used the revenues that I have just described. It does not mean we changed anything on the Tax Code. The taxes are going to come out at the 2.6 level in terms of the bracket creep that will be adjusted. So that argument just misunderstands what we have done and what the reality is.

Having said that, Mr. President, I am led to believe that, in spite of this interoffice memorandum, there is nothing from the Director of the Congressional Budget Office. This is somebody that works there named Paul Van de Water, writing to somebody named Sue Nelson, who is on the staff of the Budget Committee, and gives a little history of what has and has not been done.

The truth of the matter is that Chairman Sasser last year came to the floor—in 1993, excuse me—and he said, "I want to adjust the numbers for reality, for the real thing." And, in fact, he adjusted two items in the budget for what he perceived to be the real numbers. In doing that, revenues and moneys were found to make their budget come out as planned.

Frankly, ours is absolutely real because the Consumer Price Index is not 3.1 percent. The checks are going out at 2.6. We are not taking money away from anyone.

I am led to believe this is not subject to a point of order, and we decided that we were going to reallocate some money because a number of States felt that they had not been treated fairly here. Some said they had been treated fairly in the House. Others said they had not, and we still have to go to conference in order to come out with the final formula and final distribution.

So as far as that part is concerned, how the allocations came about, I was not part of that committee. I trust them. I think they did a good job. And the chairman is here. They all worked together on it. Perhaps he wants to explain in more detail.

But let me suggest that we in no way—in no way—are attempting to defraud anyone. As a matter of fact, this budget will be balanced in the year 2002, and if you need a letter on that from June O'Neill, we will get it for you.

This does not unbalance the budget, because we have a $13 billion surplus in 2002, and we do not use up that surplus. You do not even come close to using it, so we will still be in balance.

If I have not used my time, I wish to yield it back. And I want to ask Senator ROTH if he wants to talk for a couple minutes, or Senator DOLE.

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Seven minutes 35 seconds.

Mr. DOMENICI. We will reserve our time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 24 seconds and previously yielded time, I believe 2 minutes.

Does the Senator wish to reallocate his time?

Mr. EXON. The Senator from West Virginia is not interested in additional time.

I wish to yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. Mr. President, I will not use all my 2 minutes.

Mr. President, I rise to ask a parliamentary inquiry.

Mr. President, this morning by a vote of 51 to 48, the Senate voted for an amendment offered by myself and Senator COHEN of Maine. The amendment was adopted and agreed to. Presently pending is another amendment with different language proposed by the distinguished chairman of the Finance Committee, Senator ROTH, in the manager's amendment. Should the manager's amendment pass, does the manager's amendment encompassing or including the nursing home provisions of Senator ROTH, does it prevail over the amendment passed this morning by a vote of the Senate?

The PRESIDING OFFICER. The Chair is informed that by virtue of the fact that this amendment covers a broader spectrum of the bill, if the Senate adopts this amendment, it would prevail over the previous text that was included in the smaller reaching amendment that was voted upon this morning.

Mr. PRYOR. Mr. President, then if I have any time remaining, I would simply ask my colleagues on the other side of the aisle, why? Why are we obliterating these nursing home standards that have worked so well for these years, that my colleague from Maine was saying just now are having their bite? Why are we taking that bite out?

I think, Mr. President, we are going to be committing a terrible mistake if we do. I hope we will not adopt the chairman's amendment.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. EXON. I yield 2 minutes 50 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 50 seconds.

Mr. GRAHAM. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAHAM. Are outlay reductions to Social Security used to offset the spending of this amendment?

The PRESIDING OFFICER. The Chair is not in a position to answer that question.

Mr. GRAHAM. Would the Chair like to be informed on that matter so that he might be in a position to answer that question?

The PRESIDING OFFICER. The Chair would be happy to listen to the Senator from Florida.

The Senator has 2 minutes 30 seconds. The parliamentary inquiry does not come out of the time.

Mr. GRAHAM. Mr. President, I send to the desk for the review of the Chair as well as for inclusion in the RECORD the 1996 COLA versus conference resolution baseline assumptions data, October 16, 1995.

I would like to ask that these be compared with the projections which are utilized to produce the revenue for purposes of supporting the funding contained in this amendment.

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

All Cash Benefit Programs Indexed to the CPI

ACTUAL 1996 COLA VERSUS CONFERENCE RESOLUTION BASELINE ASSUMPTIONS

[Outlays shown by fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Social Security	−1,273	−1,729	−1,769	−1,782	−1,788	−1,788	−1,795	−1,811	−1,836	−1,867
Railroad Tier I	−18	−25	−26	−26	−26	−26	−27	−27	−28	−28
Railroad Tier II	−4	−5	−5	−5	−5	−5	−5	−5	−5	−5
SSI	−83	−110	−127	−135	−215	−150	−217	−248	−260	−271
Food Stamp Offset	16	23	24	25	34	27	34	38	39	41
Military Retirement	−11	−144	−150	−160	−167	−174	−182	−190	−198	−206
Vets Compensation	−50	−81	−78	−74	−90	−100	−111	−124	−138	−153
Vets Pensions	−10	−13	−12	−11	−12	−12	−12	−12	−12	−12
Civilian Retirement	−94	−188	−189	−191	−193	−196	−198	−201	−203	−206
FECA	−3	−5	−3	−1	−1	−1	−1	−1	−1	−1
Foreigr Service	−1	−2	−2	−3	−3	−3	−3	−3	−3	−3
PHS Retire	0	−1	−1	−1	−1	−1	−1	−1	−1	−1
Coast Guard Retire	0	−2	−3	−3	−3	−3	−3	−3	−3	−3
SMI Offset	0	0	0	0	0	0	0	0	0	0
Medicaid Offset	0	0	0	0	0	0	0	0	0	0
Total	−1,529	−2,290	−2,340	−2,365	−2,468	−2,431	−2,520	−2,587	−2,648	−2,716
Cola Assumptions (in percent):										
Actual 1996	2.6	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2
Resolution Baseline	3.1	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2

The PRESIDING OFFICER. The Senator's time is running.

Mr. GRAHAM. Mr. President, it was my understanding that time for points of order and parliamentary inquiry is not charged against the time. Is that correct?

The PRESIDING OFFICER. Respectfully, the Senator has been answered as far as the parliamentary inquiry is concerned. The Chair is not capable of making the comparisons the Senator wishes.

Mr. GRAHAM. I wonder if the Senator from New Mexico or the Senator from Delaware as chairs of the respective committees would like to comment whether they believe there are outlay reductions to Social Security used to offset the spending in this amendment.

Mr. DOMENICI. I am satisfied with the ruling of the Chair. I have no comment on that.

Mr. GRAHAM. Mr. President, I raise a point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment.

The PRESIDING OFFICER. The Chair might inform the Senator from Florida, and will not use the time but give back his time, until the time is all used, it is not yet in order to make a point of order.

Mr. GRAHAM. Mr. President, I will withhold, but reserving the time to make a point of order at the appropriate time.

The PRESIDING OFFICER. The Senator will have that time. He has 45 seconds remaining.

Mr. GRAHAM. Mr. President, just to prepare for the consideration of the point of order that will be made, I would draw the attention of the Chair to subtitle (c) of the Social Security Act, section 13301 which states:

Off budget status of Social Security Trust Funds. Exclusion of Social Security from all budgets. Notwithstanding any other provisions of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, for deficit or surplus, for the purposes of the budget of the U.S. Government submitted by the President, the Congressional Budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder who wants time on this side.

I yield 2 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. Two minutes to the Senator from Delaware.

Mr. ROTH. First of all, Mr. President, I think it is important to understand that 45—45—of the 50 States are better off under the Senate amendment than they are under the House. And I would just like to make passing reference to the three States that are said to have Democratic Senators.

Just let me point out that in the case of California, it is up $700 million from the House; Florida is up $1.3 billion from the House, and Minnesota is up $500 million from the House.

Now, one of my distinguished colleagues on the other side mentioned the treatment for seven States on page 36. And I just want to point out that six of these seven States that get additional amounts have one Republican Senator and one Democratic Senator. That was not based on partisanship. It was based upon need. And that is the point I wish to make.

In concluding, the statement was made that we are using the savings from Medicare and Medicaid for a tax cut. That is pure demagoguery. There is no truth to that.

As a matter of fact, the President's board of trustees, long before we talked about tax cuts, said we had to do something about the trust funds for Medicare. And that is what we are doing with this legislation.

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

Mr. DOMENICI. How much time is left on our side?

The PRESIDING OFFICER. Five minutes twelve seconds.

Mr. DOMENICI. The other side has used all their time?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield 3 minutes to Senator COHEN.

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

Mr. COHEN. I thank the Senator for yielding.

If I could point out what is also in this measure that has not been talked about in the last few moments.

No. 1, there are set-asides for the QMB program. I think everyone is familiar with what I am talking about. That is in the manager's amendment. There is a requirement that States impose strong solvency standards on Medicaid providers. That is in this amendment. There is an increase in Medicaid funding. That is in this amendment. There is more money for Medicare in direct education payments, and allows for more causes of action to enforce Medicaid provisions.

What was not talked about in terms of this measure is the following: We, under this measure, are imposing the nursing home reforms on the States. OBRA 1987 will remain in effect. That is what this amendment contains.

No. 2, not only do we have the same standards in effect, we also have enforcement in effect. Those two key points have to be made. The States are required to comply with the national standards, and those enforcement standards remain in effect.

There is a waiver provision contained on page 38. And I call all of the attention of my colleagues to it. What it says is, if a State does in fact have equal to or greater standards, they may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days, in which time he either grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

No. 3, at the bottom of the page, please look at it. "Any other authority available to the Secretary to enforce requirements of section 1919." That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA '87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that we for the first time have the majority saying we want to maintain OBRA '87. We want the same standards. We want the same enforcement levels. We will provide some opportunities for a waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty. So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

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

The Senator from New Mexico has 2 minutes 13 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator DOLE.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say I think we had a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 6:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware and others pointed out these have been very constructive changes.

We always have these formula fights. And there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $500 million less than they had in the middle of the week. They were not very happy about it, but that is the way the formula worked. Florida gets $1 billion more, California $700 million more than we had in the committee. Minnesota gets $508 million more than we had on the House side.

So we believe we are making progress. We are going to go to conference. We discussed this with the Governor from Minnesota, I might add. He is aware of it. He was concerned we were going to adopt a House formula which was $508 million less.

So, I say to my colleagues, it is time, I think, we wrap it up around here. And I hope that we will have every—all the votes. Everybody ought to vote for this amendment. This is a very constructive amendment, whether it is nursing homes, whatever it is. I know there is a lot of politics about nursing homes. I know the liberal media bought into the spin put on by the Democrats.

But the Senator from Maine would not be standing up here making these statements if they were not accurate. If anybody wants to question the integrity or the credibility of the Senator from Maine, they ought to stand up and do it. They are not going to do it because he has total integrity and total credibility on this issue.

I believe that we have made constructive changes. I hope we will have, if not any support from that side, solid support on this side of the aisle for this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am directing my attention to section 7482 of the legislation, which begins on page 45 and states:

> Cost-of-Living Adjustments During Fiscal Year 1996.
>
> Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average of all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

It is to that section, Mr. President, that I direct the point of order. I raise the point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment because it counts $12 billion in cuts to Social Security which is off budget to offset spending in the amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to be heard on this point of order?

Mr. DOMENICI. I want to say the dollar numbers being referred to are actual. That is all I want to say.

Mr. GRAHAM. Mr. President, could I respond to the—do you wish further debate on the point of order?

The PRESIDING OFFICER. It is not debatable. I note the Senator from New Mexico wishes not to make a statement.

The scoring of this bill under the Budget Act is under the control of the chairman of the Budget Committee, and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. HARKIN addressed the Chair.

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

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provisions of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. CPI was not changed as referred in that Act.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HARKIN. Section 7482 on page 45 of the pending amendment, line 22, states: "Notwithstanding any other provision of law . . ." Parliamentary inquiry. Is this not referencing title II of Social Security?

The PRESIDING OFFICER. The Chair is informed that that would not be interpreted as referencing anything. That is to indicate that without regard to any other provision of law, this provision of this bill would become law.

Mr. HARKIN. Further parliamentary inquiry.

Is the Chair then ruling that by that very sentence, "Notwithstanding any other provision of law," that that would, in fact, cover title II of Social Security since it is law? And that, "Notwithstanding any other provision of law," therefore, that overcomes title II of Social Security?

The PRESIDING OFFICER. The Chair would state that that interpretation—I must yield to the Senator's inquiry. The Senator is asking this Chair to act as a court and make a determination of law and the conflicts of law, and that is not within the proper prerogative of this Chair.

Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the ruling on Senator GRAHAM's point of order, is the Chair ruling that the Social Security Act, title II, may be changed within the reconciliation process by drafting a provision to read, "notwithstanding any other provision of law"?

The PRESIDING OFFICER. The Chair's ruling with regard to the point of order of the Senator from Florida was on the basis of the issues he stated. The Chair is not ruling—the Chair is not ruling—as the Senator indicated, that there is any indication here before the Chair of a provision to change the Social Security Act.

Mr. HARKIN. One last——

Mr. GREGG. What is the regular order?

Mr. HARKIN. One last parliamentary inquiry.

Mr. GREGG. I am asking for the regular order.

Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be naked to attack under reconciliation.

Would not section 310(g) of the Budget Act be now rendered meaningless by the precedent the Chair is now setting?

The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. We are attempting to comply with the Budget Act. The Chair is informing that the chairman of the Budget Committee has the authority, as did the previous chairman, to make the determination that has been made with regard to this aspect of this bill.

Mr. DOMENICI. 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.

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

The legislative clerk called the roll.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—57

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

NAYS—42

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

So the amendment (No. 3038) was agreed to.

Mr. DOLE. 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.

The PRESIDING OFFICER. Are there any other amendments to this bill?

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed——

The PRESIDING OFFICER. If the Senator will withhold. The Senate is not in order.

Mr. EXON. Mr. President, our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed that each and every provision in our point of order is indeed a violation of the Byrd rule. So I renew my point of order under the Byrd rule.

The PRESIDING OFFICER. The chair is informed that the Parliamentarian's office has indicated it has reviewed the presentation made concerning extraneous provisions, some 49 provisions. On the basis and advice of the Parliamentarian, the Chair sustains 46 of those.

Mr. DOMENICI. Mr. President, I move to waive some or all of these.

The PRESIDING OFFICER. The Senator has that right.

Mr. EXON. Mr. President, could we have a ruling of the Chair?

Mr. DOMENICI. If you do the ruling, we cannot appeal it.

The PRESIDING OFFICER. The Chair is informed the motion to waive would take precedence over the ruling.

The Chair is prepared to rule.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. DOMENICI. If I move to waive and send that to the desk with an attached list of the points of order but not all of them, what governs the debate on that proposal?

Is there any debate?

The PRESIDING OFFICER. There is no time left for debate without agreement. The point of order has been raised. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. DOLE. I wonder if the Democratic leader would have, say, 10 minutes equally divided.

Mr. DASCHLE. We have no objection.

The PRESIDING OFFICER. Is there objection to the request of 10 minutes equally divided on this issue?

Does the Chair interpret the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

DOMENICI MOTION TO WAIVE THE BUDGET ACT

Mr. DOMENICI. Mr. President, I send a list of the points of order that I am moving to waive—a partial list of the Exon points of order.

Mr. President, pursuant to section 904(c) of the Budget Act, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C—Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to states with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former States.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(6)	State Option to Deny Assistance For Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
Subtitle D—SSI:			
Chapter 5:			
7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the state.
Chapter 6:			
7295	Eligiblity for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G—Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J—COLA's:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.

Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the welfare side.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk.

The PRESIDING OFFICER. The Chair will have to look and see whether there are any of these provisions not covered by the ruling that the Chair was prepared to make.

Mr. KERRY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry?

Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated the proper procedure would be to act on the motion of the Senator from New Mexico to waive the point of order.

It is a partial waiver, he sees. During the vote on that matter, we will assert whether the items that the Parliamentarian informed the Chair were not acceptable were covered by this motion.

If they are not, we will then proceed to rule. There were three items that the Parliamentarian indicated should be dropped from the statement of extraneous provisions provided by the Senator from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side.

Mrs. BOXER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time.

Mr. EXON. I yield 1 minute.

Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian's advice until the Chair acts on the motion to waive the point of order on a series of these items.

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose.

Mr. KERRY. Parliamentary inquiry takes precedence over request for time.

The PRESIDING OFFICER. Not unless——

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I want to let people know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote, an overwhelming vote, on doing something about illegitimacy. We talked long and hard about how we wanted to do something on illegitimacy. The bonus for States who reduce their out-of-wedlock birth rate is struck from the welfare. Everyone will come back home and say we care about it and strike it.

So, no time limit on welfare. No growth formula for States —and many of you profit very well on both sides of the aisle from the growth formula put in place—for more money. It is gone.

I just want people to think long and hard. You have basically gutted the welfare bill. There is no way this thing will be able to survive and States will be able to survive under the rules that you will put into effect here.

I hope that we would stand by the 87–12 vote on this welfare and stand by the Senate vote before and vote with the chairman of the Budget Committee on his motion.

The PRESIDING OFFICER. The Senator has 3 minutes and 12 seconds left. The Senator from Nebraska has 4 minutes and 47 seconds left.

Mr. EXON. Mr. President, I yield myself 2 minutes.

I rise to oppose a motion to waive, including a major welfare bill in this massive, multi-page bill under a fast-track procedure. It is a gross violation of the process. It is extremism.

Yes, most of us voted for the welfare bill, as did this Senator. But putting this major policy change in a bill whose sole purpose is to reduce the deficit is abuse. This is just the sort of thing that the Byrd rule was designed to prevent.

I urge my colleagues to reject this motion to waive.

I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty.

If that is the desire of this body, vote not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate.

Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things.

That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against certain areas, against certain amendments, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments, either en bloc, or, if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliation bills. No matter what your thinking is on the welfare bill—and the point of order has now been made—is that bill extraneous in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, every rule, including the Byrd rule, is made for waiver. It is not a rule that Senators cannot apply any judgment to. And the reason we think this is appropriate is because 87 Senators have already voted for these provisions. I mean, I do not bring a waiver of the Byrd rule here willy-nilly just to defy the very admirable efforts of the Byrd rule to keep a bill rather clean. But I do not think leaving in a welfare bill, which is in this reconciliation bill, provisions that you already voted for with 87 votes, I do not believe that is a trivial matter for those who voted for it, if they are going to vote the opposite way tonight as they choose to strip the welfare bill of provisions they voted for before.

If I have any time remaining, I yield it back.

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

Mr. President, I ask unanimous consent for just a moment for a question of the Senator from New Mexico?

The PRESIDING OFFICER. State the request.

Mr. CONRAD. The question that I would have——

The PRESIDING OFFICER. How much time?

Mr. CONRAD. Thirty seconds.

The PRESIDING OFFICER. Is their objection?

Mr. CONRAD. Does the waiver of the Senator from New Mexico only apply to welfare provisions?

Mr. DOMENICI. That is correct. I have taken out of the large package purposefully only those that apply to welfare and ask that we waive them. Then we will go on to vote and see what we want to do about it.

Mr. CONRAD. Do we have a list of what those provisions are?

Mr. DOMENICI. Yes, we do.

Mr. CONRAD. Could Senators have a copy of that before they vote?

Mr. DOMENICI. Sure. I had 10 or 12 made. I will be happy to give them to you.

The PRESIDING OFFICER. Did the Senator say he wished time to deliver a copy to every Senator before the Senate votes?

Mr. DOMENICI. No. I said if any Senators want to see it, we have it available.

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

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 555 Leg.]

YEAS—53

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

NAYS—46

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

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

Now, if the Senate will be in order.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. Will the Senator withhold for the Chair to state one problem?

Mr. DOLE. The Chair is not going to rule.

The PRESIDING OFFICER. No, but I wish to state that the Chair has been informed that each of these extraneous provisions is subject to a motion to waive. It would be incumbent on the Chair somehow to get an agreement with the Senate how to handle this. We have never handled such a massive list of extraneous provisions before.

The majority leader has suggested a quorum. The clerk will call the roll. There is this problem.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

The Senate will be in order. Will Senators please take their seats?

Mr. DOLE. I ask to proceed for 2 minutes.

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

Mr. DOLE. Mr. President, I think rather than take further time of the Senate tonight, we can knock all the

other provisions out in conference with the Byrd rule, the very selective list sent up by the Democrats. We can take care of the other provisions in a conference. They are also subject to the Byrd rule. So, I think rather than do that here this evening, we will take care of those in conference.

Let the Chair rule, en bloc.

The PRESIDING OFFICER. The Chair is prepared to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken, 3 are not.

One is the provision regarding exemption of agriculture and horticultural organizations from unrelated business income tax on associate dues.

The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Commerce Committee dealing with the Spectrum language on page 207.

Those are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the same point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.

The clerk will enter in the RECORD those items presented to the Chair and those that were ruled upon pursuant to the advice of the Parliamentarian.

The extraneous provisions are as follows:

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
		TITLE I.—AGRICULTURE	
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate.	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustments to prorate payments to farmers if deficit targets aren't met.	313(b)(1)(A)	No budgetary impact.
		TITLE II.—ARMED SERVICES	
Sec 2001	Sale of Naval Petroleum Reserves	313(b)(1)(E)	The sale of Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421a., and the sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421b., produce a loss of offsetting receipts in the outyears that is not offset within the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
		TITLE III.—BANKING AND URBAN AFFAIRS	
3002	Deposit Insurance Study. Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate).
		TITLE IV.—COMMERCE, SCIENCE, AND TRANSPORTATION	
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate).
		TITLE V.—ENERGY AND NATURAL RESOURCES	
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the state of California for the purpose of creating a low-level radioactive waste site.
Park K:			
5920	Radio and TV Site Communication Fees	Byrd 313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by the level beginning in 1996.
Subtitle F, Oil and Gas:			
5509	Royalty in Kind	Byrd 313(b)(1)(A)	Non-budgetary. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	Byrd 313(b)(1)(A)	Non budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	Byrd 313(b)(1)(A)	Delegates various auditing responsibilities to the States.
		TITLE VI.—ENVIRONMENT AND PUBLIC WORKS	
Section 6002(c)	Rescission of highway demonstration projects	313(b)(1)(C)	This section is not within EPW's jurisdiction.
		TITLE VII.—FINANCE, SPENDING	
1895A(b)(1)(B)(iii)	Medical savings accounts of the Social Security Act as added by sec. 7001 of the bill.	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
		TITLE VII.—FINANCE, MEDICAID AND WELFARE	
Subtitle B, Medicaid:			
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2122(g)	Authority to Use Portion of Payment for Other Purposes	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows State to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C, Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former State if the family has resided in the current State less than 12 months.
405(b)(1)	No assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(b)	State option to Deny Assistance For Out of Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows States to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle D, SSI:			
Chapter 5: 7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the State.
Chapter 6: 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G, Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the U.S., and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X.—LABOR AND HUMAN RESOURCES	
§ 10002(c) (1) "(a)(2)(C)"	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1)"(a)(1)(A)", therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
		TITLE XII.—FINANCE	
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12705	Provides exceptions to the notification requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12874	Reduces insurance premiums to reachback companies	313(b)(1)(D)	Merely incidental.
12131b	Exempts Simple retirement from ERISA	313(b)(1)(A), 313(b)(1)(C)	No budgetary impact. Jurisdiction of Labor Committee.
12202d	Medicare Consumer Protection Act—regulation of health care insurance duplication.	313(b)(1)(A), 313(b)(1)(D)	No budgetary impact. Merely incidental.

Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, its details are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What concerns me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scorch the Earth in order to balance the budget.

Mr. President, I, too, want to balance this Nation's budget. In fact, I am proud to say I supported the 1993 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation's deficit in a fair and equitable manner. It would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative; most importantly, it had core values and principles that are important to every citizen in this country.

And, I, too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small, family-owned businesses to keep their businesses in the family, and I believe targeted estate tax relief is one example of good tax reform; as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation's budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts. We cannot afford to give tax breaks to people who don't need them, and then increase taxes on the working poor and health insurance on the elderly.

It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so; programs like head Start and WIC and college loans and AmeriCorps.

I ask, what good will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage job?

Moreover, the proponents argue these tax breaks will enable families to save more for the future. However, current estimates reveal that these tax breaks will increase our Nation's debt by roughly $93 billion. That's $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980's all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does it impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they're on their own? Does it provide security and safety for our children and elderly, or does it lead to uncertainty and anxiousness? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what they need to survive—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views. people are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to get for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there's Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won't have their medical costs covered.

The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

> What will happen to our family when my mother, who has Alzheimer's disease and lives with us, has no more funds and we can no longer care for her at home? My children's education depends on both my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn't the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demolishes the Commerce Department at a time when Secretary Brown has maximized its effectiveness on behalf of American businesses. This budget sends the message that the Federal Government will provide no leadership in international competition, and has no role in cultivating good, high-paying jobs that will lead our families into the 21st century.

And what about the tax increases in this budget? This budget says working families do not count in the scope of principles governing this budget.

Many families will see tax increases because of the proposed cuts to the earned income tax credit. We all know how important the EITC is, and we're all aware of the bipartisan support it has received over the years. As President Reagan once said, "this credit is one of the most successful profamily, prowork initiatives ever to come out of Congress." The budget before us will reduce the EITC by $43.5 billion over 7 years. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

The worst aspect of this tax proposal is that it increases taxes on approximately 17 million hard-working Americans while the top 13 percent of income earners will reap 40 percent of the tax breaks. Does this provide security and hope for our low- and middle-income taxpayers? It does not. Reducing the EITC simply will drop many working families into poverty, and make it more difficult for families to take care of their children and parents.

The environment doesn't escape this budget, either.

I am concerned about the impacts this bill will have on public lands and other national assets. For decades, the Congress of the United States has recognized that our public lands and assets are too precious to sell unless their sale is in the best interest of the public. But it appears to be a new day. Today, this committee may vote to sell—or lease—our children's heritage to pay our debts. The leasing of the Arctic National Wildlife Refuge in particular is not an issue of revenues. It's a question of values. It's a question of whether we are willing to trade off open space, parks, wilderness, and wildlife values—the natural legacy for our children—for a short-term payment toward the bills we have accumulated—or worse, for a tax cut for ourselves.

There truly is a right way to balance the budget; a way that provides security and hope and a way that assures average Americans that we are looking out for them. I tried to instill some of this common sense into the budget resolution, and I am pleased the Senate responded to my amendment calling for an appropriate level of Impact Aid funding. I only wish we could have had more cooperation across the board on other education needs like Head Start, School-to-Work, and Safe and Drug Free Schools, and AmeriCorps.

Mr. President, given the fundamental disrespect for families in this budget, I am forced to oppose this reconciliation package. It does not have important core principles, and I'm afraid it is leading toward an America far different from the one I grew up in. I am alarmed at its shortsightedness. I fear it was motivated by a desire to balance the budget by a given date, regardless of the consequences.

This budget leads us down a new road; a road none of us have traveled. It says the Federal Government is no longer responsible for the welfare of its people. But, yet, who will be? Who will rise to the occasion? Who will pick up the slack? None of us know, but each of us should be prepared. Prepared, because this budget is calling each of us to be more vigilant, more aware of the needs of our families and neighbors, more willing to pay for the health care needs of our parents, children, and friends. Those of us in this room may be able to pick up the slack, but many in our home States will be hard pressed to meet this challenge.

This budget is not good public policy. It is not why I was elected, and it's certainly not what the families in Washington State want.

Mr. HOLLINGS. Mr. President, once again, we are lying to the American people. Instead of a serious attempt to get our fiscal house in order, the reconciliation bill that we are now considering is little more than a political document. It is more about getting a Republican in the White House than getting rid of red ink. The American people will not be fooled. The Republican reconciliation bill does not balance the budget—it merely front loads goodies such as the tax cuts and back loads all the tough decisions. Mr. President, I ask unanimous consent that two tables that I have prepared exposing the realities of the GOP budget be included in the RECORD at this time.

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

"Here We Go Again": Senator Ernest F. Hollings

[In billions of dollars]

1995 CBO outlays	1,530
1996 CBO outlays	1,583
Increased spending	+53

GOP "SOLID," "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	1,583	1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

DEBT ([1] OFF CBO'S APRIL BASELINE)

[In billions of dollars]

	National debt	Interest costs
1995	4,927.0	336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0
	1996	2002
[1] Debt includes (off CBO's August-baseline):		
1. Owed to the trust funds	1,361.8	2,355.7

DEBT ([1] OFF CBO'S APRIL BASELINE)—Continued

[In billions of dollars]

	National debt	Interest costs
2. Owed to Government accts	• 81.9	([2])
3. Owed to additional borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4
"Paper" Balancing:		
1. By borrowing and increasing debt (1995–2002)—Includes $636 billion "embezzlement" of the Social Security Trust Fund		1,801.0
2. Smoke and Mirrors		

[2] Included above.

[In billions of dollars]

	Outlays	Revenues
2002 CBO BASELINE BUDGET	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
[1996 cuts, $45 B] spending reductions (in 2002)		−347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462
+ Increased Borrowing from tax cut		−93

[In billions of dollars]

	Outlays	Revenues
Grand total		−555

Promised balanced budgets

[In billions of dollars]

1981 budget	[1]0
1985 GRH budget	[2]0
1990 budget	[3]20.5

[1] By fiscal year 1984.
[2] By fiscal year 1991.
[3] By fiscal year 1995.

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−331.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports

[In billions of dollars]

	Year 2002
1996 budget:	
Kasich Conf. Report, p. 3 [Deficit]	−108
1996 budget outlays (CBO est.)	1,583.0
1995 budget outlays	1,530.0
Increased spending	+53.0

[In billions of dollars]

	Outlays	Revenues
CBO baseline assuming budget resolution	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
3. Using SS Trust Fund (in 2002)		−115
Total reductions (in 2002)		−462

ENERGY PROVISIONS

Mr. CRAIG. Mr. President, as a member of the Energy and Natural Resources Committee, I am pleased the distinguished chairman, Mr. MURKOWSKI, has agreed to participate in a colloquy with me and my colleague from Idaho, Senator KEMPTHORNE, concerning the energy provisions of S. 1357. Has the chairman reviewed our proposed amendment concerning aircraft services for the Department of the Interior?

Mr. MURKOWSKI. Mr. President, I have reviewed the amendment submitted by the Senators from Idaho, and it reads as follows:

On page 395, line 24, after "shall" insert ", unless it would be more cost-effective for the Department to use government-owned and operated aircraft,".

On page 396, lines 8 and 9, after "suppression" insert "and those that it would be more cost effective to retain under subsection (a).".

Mr. KEMPTHORNE. As the chairman knows, the Energy provisions of S. 1357 would change Department of the Interior practices relating to aircraft services by requiring the Secretary to sell all DOI aircraft and related equipment and facilities—except those whose primary purpose is fire suppression—and instead contract necessary aircraft services from private entities. Am I correct that this provision is targeted at saving tax dollars and stopping Government waste?

Mr. MURKOWSKI. The Senator is correct.

Mr. CRAIG. Mr. President, an independent study of the Bureau of Reclamation's Government-owned, Government-operated aircraft service in Boise, ID, found that it saved more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happened to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. CRAIG. Mr. President, I also thank my chairman for accommodating our concerns while preserving the fairness and cost savings of the Energy Committee's provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 959, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator HATCH, had over 40 cosponsors.

I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive

to invest in small businesses. I would have liked it if the real estate loss provision had been included by the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are not limited to the wealthy. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we stifle savings and investment by overtaxing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth.

I would like to close with a quote from this year's Nobel Prize winner in economics, Robert Lucas. He said, and I quote, "When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains as Professor Lucas would prefer, I hope that you will join in supporting this provision.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax Code is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.

It is high time that we simplify the Tax Code. Simplification should and must be on the front burner.

We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

A number of questions remain to be answered with respect to the flat tax. What will be the impact of disallowing the mortgage interest deduction or the charitable deduction? If companies can no longer deduct their contributions to employee pension plans or health care plans—will they continue to make those contributions?

There are a lot of questions that need to be answered about a flat tax. But it does have one thing going for it. It has to be simpler than our current code.

As we develop an alternative to the current tax structure, we want to keep an eye on simplicity and fairness.

We need an alternative to our current Tax Code. This sense-of-the-Senate resolution starts us on our way to structuring a simplified tax system.

ENHANCED ENTERPRISE ZONE

Mr. LIEBERMAN. Mr. President, I had intended to offer an amendment with Senator ABRAHAM to supercharge the enterprise communities and empowerment zones we created in 1993

This amendment builds on S. 1252, the Enhanced Enterprise Zone Act of 1995, which I have introduced with Senator ABRAHAM. Our effort has been very bipartisan—to date Senators SANTORUM, MOSELEY-BRAUN, DEWINE, BREAUX, and FRIST have all agreed to sign on as cosponsors of 1252.

Across this country, there are differing views on the state of race relations, affirmative action, and minority set-aside programs like the 8(a) program. Racial divisions in this country have been highlighted by the O.J. Simpson trial and to some extent, I believe, healed by the message that came out of the Million Man March.

The differences across America on issues like affirmative action and 8(a) also exist among Members of the U.S. Senate. That being said, I believe that each and every Member of the Senate believes the following: that regardless of what we each believe we should do about the racial divisions in this country, what to do about affirmative action, and what to do about minority set-aside programs, we all believe that not enough is being done to help those people who live and work in and want to start business in the economically distressed urban and rural areas of this country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined for failure.

Last week the Senate Small Business Committee held a hearing on S. 1252 and former Housing Secretary Jack Kemp had this to say:

> The train wreck is not so much the inability to reconcile the differences between the House and the Senate over the budget . . . The real train wreck is what those 400,000 men were saying on the Mall a few days ago: that there are not enough jobs in America. We are not creating enough opportunities for people to become entrepreneurs, to become owners, to become homeowners, to become business owners. To get jobs not only as truck drivers, but someday to own the truck and maybe start a little trucking company.

We took a step toward identifying and helping these areas of economic distress by passing the Empowerment Zone and Enterprise Communities Act in 1993 with much-needed help from this President. With the passage of that legislation, Congress recognized something that our States have acknowledged for many years: Government loses the war on poverty when it fights alone. What we really need to do is figure out a way to pull the people and the places with little or no stake in our economic system, into our system.

The 1993 legislation was a fundamental change in urban policy. It was a recognition that American business can and must play a role in revitalizing poor neighborhoods.

The 1993 legislation was a critical step in the right direction. But we need to go further, particularly in helping the existing 94 enterprise communities. This amendment is designed to supercharge these zones. We propose to add tax incentives and other Federal assistance to these zones with an eye toward the creation of economic opportunities for the urban and rural poor.

Very briefly, this amendment provides a zero capital gains tax on the sale of any qualified zone stock, business property, or partnership interest that has been held for at least 5 years within an EZ or EC; it allows individuals to deduct the purchase of qualified enterprise zone stock from their incomes—up to $100,000 in 1 year and $500,000 in their lifetime and it allows businesses to double the maximum allowable expensing for purchases of plant and equipment in enterprise zones.

This amendment also includes a modified version of a proposal which Senator HUTCHISON has been working on to provide a limited tax credit to businesses to help defray the cost of construction, expansion, and renovation. While revenue constraints have forced us to scale back that proposal we hope it will work so well that we will want to expand it in the future.

A third initiative embraced by this package is low-income home ownership and residential management of public housing. Jack Kemp has been instrumental in pressing us to make this happen.

Setting down a stake in the system has been out of reach for the poorest among us for far too long. We believe this amendment will create opportunity for those who work hard, ownership opportunities for those who want to own property and support for those families who need it.

Last week, the New York Times carried a story about Mr. Lavale Thomas,

a former Green Bay Packer running back and current black entrepreneur, speaking to a group of high school students in Washington, DC. And here are the questions the students asked Thomas: "How did you get a loan? Was it harder for a black man to get banks to lend money than a white man? Would blacks buy from other blacks? What did he give back to the community?"

These are great questions for kids to be asking. They all get at the issue of, "How do I become part of the system?" This amendment is designed to make it easier for these students to become part of the system and to build a better future for themselves.

While we will not be offering this amendment today, I hope my colleagues will join me in supporting much-needed help for our economically distressed areas by supporting S. 1252.

NURSING HOME STANDARDS

Mr. BAUCUS. Mr. President, I voted yes today on the Cohen-Pryor amendment to reinstate Federal nursing home standards. I did so in part because the so-called Finance Committee manager's amendment, which included a provision on nursing home standards, was not completed and available at the time of the vote on Cohen-Pryor. The language in the manager's amendment may be preferable over Cohen-Pryor. But, because the amendment was not available for review, I was not able to compare the language of Cohen-Pryor with the manager's amendment to see which is the better version for seniors and nursing homes in Montana.

My vote on Cohen-Pryor in no way means that I favor the Cohen-Pryor amendment over the nursing home provisions in the manager's amendment, which the Senate hopefully will be able to review later today.

Mr. LIEBERMAN. Mr. President, I would like to take a moment to talk about a proposal I have been working on to make the child tax credit better. This proposal, called Kid$ave, would do much to address a number of the fundamental problems we face today as well as the problems our children will face in the future. I had hoped to offer this proposals as an amendment to the bill before us but I am not convinced there is adequate time in this process to give this proposal a thorough airing. For this reason, I would like to outline this proposal and ask that the conferees on this bill review this proposal in conference.

Kid$ave would transform the $500 middle-class tax credit being considered by the Finance Committee into a long-term retirement savings account. In addition to providing for the economic security of the next generation, the proposal would buttress savings and investment for the economic security of this generation.

Kid$ave allows parents to set aside an annual $500 credit in an IRA in their child's name. The tax-deferred account would be governed by IRA rules, with one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest, $500 a year set aside from birth to age 18 would, at 10 percent interest a year, grow to $1.3 million by the time the child reached age 59½, the age at which IRA funds can start to be withdrawn with no penalty.

One of our greatest challenges is how to create economic opportunity and wealth for the working families of this country. I believe Kid$ave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But Kid$ave is good news for the present, as well. Kid$ave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. When government deficits are factored in, U.S. net national savings falls to 2.07 percent. When our historic trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is locked into Federal securities, Kid$ave would create a savings pool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem by assuring a long term capital source for economic growth and job creation. In other words, Kid$ave can help children when they retire, and it can help them find work until they retire.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children's generation to fund upcoming social security, pension and health care obligations, jeopardizing the long term availability of those programs to the following generations of Americans. This will create what Professor Rudy Dornbusch of MIT calls a true crunch in world capital markets, since we share that demographics problem with our industrial competitors in Europe and Asia. That capital shortage—which means major government and private sector borrowing to meet social and pension obligations and resulting sky high interest rates—will have serious ramifications for future economic growth unless we act now to head it off. The best course to take is to encourage a large buildup in private savings rates. Kid$ave tackles that problem head on.

One additional advantage of Kid$ave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit car mentality. We would compound our problems if we pass such bad habits on to future generations. Kid$ave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

I would like to offer Kid$ave to all children in America. But I understand that revenue targets may require limits on who receives the credit, at least at the outset. I also understand that the Senate is divided between those who would like to cut taxes for middle-class families now and those who would prefer to balance the budget first. I believe Kid$ave can bridge that divide because it is a better kind of tax cut, one that helps us address the Nation's savings and investment crisis even as it provides tax relief.

But best of all, unlike any other proposal on the table, Kid$ave gives our children a tangible, financial head start on the rest of their lives.

In closing, let me say that whether or not you believe a family tax cut is a good idea at this time, this is an idea that improves on that credit. Last week's Baltimore Sun carried an article coauthored by an unlikely pair: John Rother of the AARP and Martha Philips of the Concord Coalition As they point out, they do not agree on much, but they do agree that a Kid$ave-like approach to a tax cut makes sense. Mr. President, I ask unanimous consent that the text of their article be printed in the RECORD and I would encourage my colleagues to take a close look at this idea.

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

[From the Baltimore Sun, Oct. 17, 1995]

IF WE MUST HAVE A TAX CREDIT FOR CHILDREN, DO IT THIS WAY

(By Martha Phillips and John Rother)

WASHINGTON.—You can probably count on half the fingers of one hand the number of times recently that the Concord Coalition, which works for a balanced budget, and the American Association of Retired Persons, which advocates for the elderly, have been on the same side of a public-policy battle. The current debate over the child tax credit is one of those rare instances of common ground.

We are dismayed at the prospect of enacting an unnecessary and large tax cut at this time—even one benignly labeled a "child tax credit." A large tax cut only makes the job of reducing the deficit that much tougher

and leads to deeper program cuts than otherwise would be necessary, including cuts in programs that help children. The economy is not faltering, so there is little justification for stimulating it by pumping another $500 a year per child into consumer spending. Over the long term, the economy needs more savings, which is the chief rationale for balancing the budget in the first place.

Congress and the president nevertheless have signed on to the child tax credit notion, so some version seems likely to be enacted. If there is to be a new children's tax credit, we think an idea that Senators Bob Kerrey and Joe Lieberman and several others have been working on is much better than anything else we have seen.

Although the specific details remain to be worked out, their central idea is simple. Allow a $500 tax-refundable credit for children under age 18 only if the money is invested in qualified retirement accounts for that child's old-age security. Funds in the accounts would not be taxed until they were withdrawn by the child at retirement age.

If the child saves the $500 credit every year from birth for 18 years, there would be a retirement nest egg of $9,000, plus another $4,000 to $16,000 in compounded earnings by the time the child reached age 18. That's nice, but it gets much better. Over every 40-year period since the Great Depression, diversified equity funds have generated returns of somewhere between 6 percent and 10 percent. Even if another penny were never added to the account after age 18, by the time the child reached age 65, the account would be worth a quarter of a million dollars at a 6 percent real rate of return, and three quarters of a million dollars at 8 percent. Leaving the initial $9,000 untouched until age 70 would result in $1.1 million at an average 8 percent return.

These savings would be available to fuel long-term economic growth and could help provide not only future jobs but an improving standard of living for today's children when they are grown. The impressive results of compound earnings over 65 or 70 years would help assure old-age economic security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers, and since economic surveys show most households with inadequate levels of private retirement savings, it is clear that we need a new approach. The income from these individually-owned retirement savings would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered in the same way as the federal-employee retirement-savings program. There could be a wide range of investment options combined with the efficiencies and safety of large pools of investment funds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health-care needs may very well be in the child's best long-term interests, but any exceptions permitting early withdrawals must be narrow. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for another, undermining the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500-per-child contribution to children whose parents can already provide for their futures. So the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children who today see little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names and are growing over time will reinforce the importance of other types of deferred-gratification behavior. We shouldn't discount the impact that such accounts will have on our children, even though they cannot use them immediately.

Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of proposed spending reductions and other tax changes on programs for children, working families and vulnerable seniors. Again, our organizations do not think we should be considering major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It's good for our children, for the economy and for the long-term needs of future retirement-age Americans.

The concept that Senators Kerrey, Lieberman and others are working on hasn't been introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option. Properly structured, the children's saving credit offers a way to leave a legacy of savings, responsibility and security to Americans of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAYS

Mr. BIDEN. Mr. President, the reconciliation bill promises to cut corporate welfare, save taxpayers' money and balance the Federal budget. Yet, tucked away, deep in the more than 2,000 pages of the bill, is a golden giveaway of billions of taxpayers' dollars to a powerful special interest lobby.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonalds value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining companies get the gold, and American taxpayers get the shaft.

The sham reform contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of, what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving.

Our conservative colleagues argue endlessly that we need to run the Federal Government, more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its products?

On top of these fraudulent prospective changes, the bill's grand fathering provisions guarantee the status quo for over 200 claims currently pending with the Interior Department. These applications, involving over 130,000 acres of public land, 18 national parks, and more than $15 billion in precious minerals, would be granted without the rightful payment to the taxpayers who own the land. Again, billions of taxpayers' money is given away, just handed over due to this antiquated law.

Just last month, Secretary of the Interior Babbitt was forced to sign away over 100 acres of land, containing 1 billion dollars' worth of minerals to a Danish mining conglomerate which paid an embarrassing $275—Federal couch change. This century-old practice has become eerily reminiscent of the Teapot Dome scandal during the 1920's.

Unlike farmers and ranches who have a vested interest in preserving their land, miners have virtually no stake in using the land in an environmentally sound manner. After the gold is taken, the shaft is plugged, and the company abandons the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers' dollars to clean up. In fact, the Superfund national priority list of hazardous waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans and caused them to lose faith in Government's ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

EITC

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall, and on the cuts we are contemplating in the earned income tax credit [EITC] in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains piece will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I've supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for the kids. Those accounts would be governed by IRA rules with one exception—children would be allowed to take a 10-year loan against their account for higher education. And I'm not enthusiastic about

what this bill does to Medicare—not because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I'm encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit [EITC].

Let me tell you why I like the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code, not through a new social service program run by bureaucrats in Washington. That is something both parties should be able to support and indeed, in the past, both supported the EITC.

President Reagan championed this program as the "best antipoverty, the best pro-family, the best job-creation measure to come out of Congress." Last week in testimony before the Senate Small Business Committee, former HUD Secretary Kemp cautioned against cutting back too far on the EITC "because that is a tax increase on low income workers and the poor which is unconscionable at this time * * *"

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years—this figure is nearly doublt what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a dramatic increase in the cuts this Chamber agreed on during consideration of the budget resolution just 5 months ago. That resolution assumed $21 billion in EITC cuts. I found that proposed cut distressing. We are now talking about nearly tripling that cut. I find that downright alarming.

Here are the people we will hurt the most with these proposals: Workers without children who receive the EITC. These are workers with incomes under $10,000; EITC families with one child and incomes above $12,000 and; EITC families with two or more children regardless of how low their income.

In practical terms, about 17 million low- and moderate-income families—including nearly 13 million low-income families with children will feel the impact of these changes. In my home State of Connecticut alone, these changes would amount to an average increase of $311 for over 92,000 families. This simply makes no sense. It takes us further away from our goal of encouraging work and self-sufficiency.

Of course we ought to get rid of waste and fraud in this program. I believe the administration has done a commendable job in helping in that effort. But the increase in this program in recent years has been by design not by fraud and deviousness. Congress voted to expand this program in 1986, 1990, and 1993. When the changes we made to the program in 1993 are fully phased in at the end of fiscal year 1996, the EITC will actually grow by very modest rate of 4.5 percent a year.

This program has had bipartisan support because both sides of this aisle have been able to agree that we should use both hands to applaud those who are working to lift themselves out of poverty and then use one of those hands to give them the help and support they deserve.

The Democratic Leadership Council, which I am pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute [PPI] has done a lot of excellent work on the issue. At this point, I ask unanimous consent that an article by Mr. Jeff Hammond on the EITC, which appeared in the September 29 Washington Times, be printed in the RECORD.

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

[From the Washington Times, Sept. 29, 1995]

RELIEF FOR THE HARD-WORKING POOR

(By M. Jeff Hamond)

This year, both House and Senate have proposed reforms to the Earned Income Tax Credit (EITC) with the intent to save money rather than make the program work better. The EITC—which helps millions of low-income working families escape poverty—is an example of Congress targeting the good as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: It says that the government is there to help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past; in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which the credit reaches a maximum and then begins to phase out. President Clinton's five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

By promoting work over welfare with virtually no overhead costs or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Rising costs. Some critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have grown quickly. "The EITC is the fastest-growing government program, period," Mr. Nickles has said. "It's growing much faster than Medicare or Medicaid."

Detractors conveniently ignore, however, that Congress voted to expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

Waste, Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars in fraudulent refunds. This statistic is based on a January 1994 IRS study, and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off—or claimed too little—this was included in the statistic. Many of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed "fraudulent" claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) may have done so unintentionally, due to the complicated tax laws.

Third, the study was based on 1993 returns. Since than, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rate will be much lower for 1994 and future tax years.

Work Disincentive. Some critics assert that the EITC is actually a net work disincentive, because the phase-out of the credit in effect applies an additional 16 to 21 percent tax to earnings within the phase-out range.

It is true that effective marginal tax rates are high in this range, and that the maximum allowable income to be eligible for the credit may be set too high. Nevertheless, recent research shows that the EITC still provides a large net positive work incentive. One recent estimate shows that if market entrants work only 400 hours annually, the expanded credit will increase the labor supply of low-income workers by 20 million hours per year. Since the average EITC recipient worked 1,300 hours in 1993, the final net benefit is probably much larger.

Suggested Reforms. We can get people to move from welfare to work only if work pays, and the EITC ensures that it will. This is why many Republican governors insist that the EITC is an indispensable part of welfare reform. Yet, the program is not perfect. Sensible reforms include:

Adjusting the phase-in and phase-out ranges to maximize the number of families in the former and minimize the number in the latter. These changes will place more families in the work incentive range of the EITC without increasing its total cost. (Shortening the phase-out will increase the marginal tax rate within the range, but it will affect fewer families. Texas Republican Rep. Bill Archer's tax proposal—which passed the Ways and Means Committee last Tuesday—does shorten the phase-out range.)

Implementing further policies designed to cut down on fraud, such as requiring valid Social Security numbers for all applicants to prevent undocumented workers from claiming the credit.

Finally, requiring firms to notify their low-wage workers that the credit can be applied to each paycheck, rather than collected at year's end. Less than one percent of EITC recipients utilize this option. Since firms have an incentive to verify hours worked (or else they will overpay payroll taxes), such a requirement could further reduce fraud.

At a time when phrases like "shared sacrifice" and "welfare-to-work" are wielded on both sides of the isle, the EITC stands as an

item that should unite both parties. The program needs some changes, but it has been one of our most successful social policies. If conservatives are serious about promoting work and ensuring that full-time workers escape poverty, they will help improve and preserve this program—not cut it simply to reach a budget target.

Mr. CAMPBELL. Mr. President, this bill includes a measure directing the sale and transfer of the federally owned Collbran project, located near Grand Junction, CO. The provision is similar to S. 1109, which I introduced earlier this year with Senator BROWN.

Since the introduction of this legislation I have worked with the citizens of the Plateau Valley, with Mesa County officials, with various departments of the State of Colorado, and with the local and national staff of the Federal Reclamation, Forest Service, and BLM.

In that process I have agreed to make dozens of changes to the bill; however, at the request of my colleagues on the Energy and Natural Resources Committee I will not take up the Senate's time and will instead have the changes made during conference on the budget bill.

I do want to take a moment to describe the changes to the Collbran bill that I intend to make in conference.

From the start I have wanted to make sure the bill protects the longstanding commitment to provide top quality public recreation at Vega Reservoir. I have worked with the State to make sure that the Federal commitment to make major improvements at Vega is retained, and to provide for State ownership of the recreation facilities and open space at the reservoir.

The Forest Service and BLM wanted to make sure the bill would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal lands. In response, the bill will provide for easements to the water facilities, and provide a specific role for the Forest Service in preparing the annual operating plan for the project.

The State asked, and I have agreed, that money contributed by the districts toward the recovery of endangered fish be spent on recovery efforts in Colorado.

Many folks in the Plateau Valley have raised a concern with me that there will be insufficient opportunity for the public to be involved with the operation of the project. I understand this concern, it is legitimate, and I have tried to address it in various ways. The issue is "To what extent will the Ute and Collbran Water Conservancy Districts be publicly accountable in their operation of this Federal water project?"

First, the bill states that "the power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities." That will be the law. The language is plain.

Second, the bill requires annual reporting to the Secretaries of the Interior and Agriculture as to the operating plan for the project in the coming year. The purpose of this provision is for full public disclosure of annual operations.

I will amend that provision to increase accountability by requiring full consultation with the Mesa County Commissioners and with the Forest Service in preparation of the annual operating plan. This will allow the public to raise issues through the Commissioners and through the Forest Service and get action on those issues through the annual planning process.

Part of the concern that has been raised involves the extent to which the bill can affect the disposition of water between the Plateau Valley and the Grand Valley, and this is an issue on which I have broadly consulted with state officials and water lawyers. There are several reasons that federal legislation on this point would be unworkable.

First, all changes in water use are subject to state water law and are adjudicated through the state water court process. The water court is charged with protecting the interests of all associated water users when a change in use is considered or requested.

Second, the holding of a water right is a private property right and one in which I frankly would oppose Federal interference.

And third, the Ute and Collbran Water Conservation Districts are publicly accountable organizations created in accordance with Colorado law. Colorado Law includes a number of provisions providing for public accountability, including the ability to elect board members. It would be inappropriate for the Congress to interfere with that structure.

I will, however, amend my bill to prohibit any out of state transaction involving water from this project.

I have appreciated the willingness of citizens and agency staff to work with me on the development of this legislation. I am open minded about making further changes to the bill, in addition to the many that have already been made.

Thank you, Mr. President. I yield the floor.

HORMONAL CANCER DRUGS

Mr. D'AMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE's amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have spread beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover some oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in injectable or intravenous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The result is that Medicare currently discriminates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately afflicts Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is an obvious case of being penny-wise and pound-foolish. Hormonal therapy is a less expensive treatment option when measured against the risk of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record in support of correcting this oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Senate passed this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted to learn the Finance Committee adopted a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to sponsor 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee's budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator MCCAIN, and ask if he would have any comments.

Mr. MCCAIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification proposal included in the budget reconciliation measure.

I also wish to take this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the code and promoted by insurance companies only later to find that such plans were not expressly intended for the use of government employees involved in activities other than education. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a similar provision in section 12941 of the bill, and I thank him for that.

MFN STATUS FOR CAMBODIA

Mr. MCCAIN. For the past 2 years, I have been involved in an effort to grant most favored nations [MFN] trade status to Cambodia. Today, I intended to accomplish this by offering an amendment identical to the language already approved by the House. The chairman of the Finance Committee, Senator ROTH, has informed me, however, that he would prefer that trade provisions not be included in the reconciliation bill. In deference to his opinion and his responsibility for guiding this bill through the process, I have decided to withhold my amendment.

Mr. ROTH. I thank the Senator from Arizona. I know that this is a very important issue for him. It is among a number of trade issues which must be dealt with by the committee in coming months. The Senator from Arizona has my assurance that the Fiance Committee will take up H.R. 1642—the House-passed bill dealing with this issue—the next time it meets to deal with trade issues, and that I will make every effort to have it reported out favorably.

Mr. MCCAIN. I thank the chairman for his cooperation and for his interest in the issue. Cambodia has come a long way from the dire situation it faced just a few years ago. We can help the Cambodian people overcome the remaining challenges they face by empowering them to help themselves through economic development. This is what makes MFN such an important issue. An economically developed, prosperous Cambodia will be better able to create the foundations for democracy and contribute to the stability of Southeast Asia.

Mr. SMITH. Mr. President, this is a historic moment in the history of our country. Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called immoral and irresponsible. The American people have been warned of devastating cuts in spending. To the casual observer, it might appear that the sky is about to fall.

The truth is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future. We are acting now only because previous Congresses have failed the American people.

At the end of this year, our national debt will exceed $5 trillion. We are adding to the debt at the rate of $9,600 per second. Right now, every man, woman, and child in America is more than $18,000 in debt. The current trends are not sustainable.

Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it along ago. I do not agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can't beat something with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton's plan was recently rejected by the Senate, 96 to 0.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between 1 and 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30-year, $80,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. They find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for adoption expenses? Is it offensive to provide a tax credit for interest paid on a student loan?

I certainly do not think so.

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I find that position arrogant, and I am not alone. As is now well known, the President now regrets his decision to raise taxes. Presumably, the President realized that the Government in Washington has enough tax dollars to spend. Those who oppose the tax cuts contained in the bill before the Senate today should understand this fact: the budget before the Senate today would reduce taxes by $245 billion. It does not even completely refund the Clinton tax increase.

Mr. President, we are witnessing the last gasp of air of big-government, Washington-knows-best liberalism. It may come as a shock to many, but Uncle Sam is not the solution to every problem in America.

I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long. The danger is not going "too far, too fast," as many would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I urge my colleagues to support this budget. It is bold; it is real, and it stands alone as the only solution to our Nation's fiscal problems. The time for talking is over. The time for acting is now.

USEC PRIVATIZATION

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Senator DOMENICI to accomplish the same purpose.

Mr. President, I commend Senators DOMENICI, MURKOWSKI, JOHNSTON, FORD, and others for their efforts to produce legislation that balances our country's need for a private uranium

enrichment company with a nonproliferation solution that assists Russia in its weapons dismantlement. However, I seek a few clarifications, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium, I want to urge the U.S. Enrichment Corporation to make use of sector services and facilities prior to making any contractual work agreements with the U.S. Government.

Mr. MURKOWSKI. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator, I wish now for clarification of section 5012(b), regarding Russian HEU. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement of providing the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURKOWSKI. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium component of LEU derived from Russian HEU, either directly from Russia or in an auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement, to third parties for delivery to the United States, subject to the market restrictions as stated in the bill before us and other applicable law.

Overall, this legislation and its provisions will: First, advance the world's nonproliferation goals; second, provide the Russian Federation immediate hard currency and; third, assist the Russians in meeting future continuing obligations.

Mr. WARNER. My last question. Are there provisions in this bill to allow either the change of executive agent or nominating more than one U.S. executive marketing agent to help facilitate these uranium transactions?

Mr. MURKOWSKI. Our language recognizes and does not change the right of the U.S. Government under the government-to-government agreement to exercise its option of changing the U.S. executive agent or allowing for more than one after consultation with and upon 30 days notice to the Russian Federation.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia's nonproliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to denuclearize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax.

What we have under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended to so harshly penalize investment in equipment needed to modernize our factories; nor did we intend to force companies that have no profit to borrow money to pay their AMT. Yet this is precisely what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in 1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President's proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the method of depreciation, but does not do enough for the recovery period. Yet it is the unreasonably long recovery period for most investments under the AMT that creates the severe penalty on investment.

S. 1000 fixes both parts of the AMT depreciation problem and I believe it is the right policy on AMT. I hope in conference and in negotiations with the White House that we can come up with a bill that will truly fix the antiinvestment nature of the AMT depreciation rules. This can be done in a way that preserves the integrity of the tax collection process by not letting truly profitable firms totally escape taxation while at the same time encouraging economic growth and job creation which I believe is essential to an improved standard of living for all Americans.

Mr. CAMPBELL. I would like to confirm with my colleague from Alaska the committee's intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of the year 2000 in return for the payment of $12.9 million by the districts to the United States. The transfer to the districts includes the listed facilities and other assets that comprise the Collbran project, but excludes the Vega recreation facilities owned by the United States or the State of Colorado. Several questions have been raised regarding the legislation. First, some have raised a concern that it may include or affect the Plateau Creek pipeline replacement project which has been proposed independently by the Ute Water Conservancy District.

Mr. MURKOWSKI. The Committee carefully defined the scope of the transfer so that this legislation will have no affect on the proposed Plateau Creek pipeline replacement project, which will be subject to all requirements of Federal and State law which would exist if the transfer did not occur.

Mr. CAMPBELL. Another issue that has arisen is regarding the relationship between the legislation and the Endangered Species Act. In particular, questions have been raised regarding the effect of the payment of $600,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act, and that no determination has been made regarding the existence of any obligation or liability of the Collbran project or other existing water supply projects in the Colorado River Basin in Colorado with respect to species listed and critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer,

$600,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish apecies in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative for water depletions from all existing and future water projects in the Colorado River Basin in Colorado. In the event that any such determination is made in the future, and if the Recovery Implementation Program no longer serves its intended purpose, the Collbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. CAMPBELL. The transfer of the Collbran project is based on the requirement that the water and power resources produced by the project will continue to be used for the purposes for which the project was authorized for a period of 40 years from the date of enactment of the legislation. This requirement ensures that the transfer will not cause any significant change in project operations or distribution of benefits, and obviates any need for any further study or review of the transfer. However, some have sought assurance that the legislation does not interfere with the district's ability to negotiate a contract with preference power customers in the Salt Lake City Area Integrated projects office of WAPA or their designee for operation and maintenance of the power features of the Collbran project.

Mr. MURKOWSKI. The legislation does not affect the ability of the districts to obtain additional cost savings by contracting with third parties in order to achieve more efficient operation of the power features of the project or for other purposes.

Mr. CAMPBELL. I would also like to confirm my understanding that the transfer renders moot the pending litigation by the Department of Justice regarding water rights for Vega Reservoir.

Mr. MURKOWSKI. That is correct. The pending litigation initiated by the Department of Justice for the purpose of obtaining water rights in the name of the United States for the Collbran project should be dismissed in light of the mandatory requirement for the transfer of the Collbran project to the districts.

Mr. CAMPBELL. Finally, the legislation provides that the Vega recreation facilities be transferred to the State of Colorado at a future date, which includes lands currently owned by the United States in sections 31, 32, and 33 of township 9 south, range 93 west, 6th principal meridian, and sections 4, 5, 6, and 7 of township 10 south, range 93 west, 6th principal meridian. Does the transfer of these facilities to the State include any of Collbran project facilities, and does the transfer of the project provide the districts with any land that could be sold in the future for residential development?

Mr. MURKOWSKI. No, the Collbran project facilities, and the lands upon which they are located, are to be transferred to the districts. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleague.

TAX CREDIT FOR RESEARCH AND DEVELOPMENT PROJECTS

Mr. HATCH. Mr. President, I rise today to speak in support of a bipartisan effort to extend the tax credit for research and development projects engaged in by American industry. I want to commend the chairman of the Finance Committee for his excellent leadership on this measure because I wholeheartedly believe that this program is critical to the future of our economy. We are the world leader in research and development, and I believe that technology is the engine for economic growth. This measure helps keep our competitive advantage on the world R&D market. The bill before us today extends the R&E tax credit for 20 months, retroactive to July 1, 1995. Ideally, we wanted to extend the credit permanently and thus remove the uncertainty that has characterized the credit in recent years. Unfortunately, due to limited resources, we have had to go with a temporary extension instead. However, this is still a significant step forward, and I am glad to be a part of this effort.

I want to express my concern for the companies engaged in significant research and development activity in the United States that are unable to qualify for the current credit. Several of my colleagues share this concern, and I would now like to engage Senator BAUCUS from Montana and Senator LIEBERMAN from Connecticut on this point. We support extending the R&E tax credit for another 20 months. We also support providing those companies that currently do not qualify for the R&E credit, and that are engaged in significant R&D activity, with an elective alternative incremental research credit [AIRC], as provided in the House tax bill. I look forward to my colleagues' remarks on this point.

Mr. BAUCUS. Mr. President, research and development keeps us competitive with our foreign trading partners. It supports high wage and high skilled jobs in the United States and enables us to compete in developing products that increase our quality of life. We must support our American industry here at home or face losing our edge in research and development to our foreign trading partners. Other countries offer much more generous R&E tax incentives: for example, Canada has a 20-percent credit for all R&E expenditures; Japan and our European competitors all offer significant tax incentives to encourage research and development activity.

A strong R&E tax credit not only maintains research and development activity here in the United States but it also contributes to the development of high-skilled jobs. It is my understanding that a substantial portion of the R&E credit is comprised of wages and salaries paid to our research employees. We need to continue this trend. In this age of global markets we need a research and development strategy that is competitive and strong. R&D grows our economy, it raises our living standards and develops a high skilled work force.

Mr. LIEBERMAN. Mr. President, I echo my colleagues' sentiments and add that while our current R&E program supports many fine research and development activities, a number of significant R&D investors are ineligible to use this credit under our current law. The alternative incremental credit approved by the House enables those companies to take advantage of this resource, and while I am disappointed that the alternative credit is not part of the package before us today, I hope that the conferees will look kindly on this proposal.

I am concerned that many U.S. companies engaged in high-technology research are unable to stay competitive in the global market due to declining Federal research dollars. By extending the tax credit for 20 months and offering the AIRC program, we can provide our industries with some certainty in helping them plan their research and development strategy.

Mr. HATCH. Mr. president, I hope that our colleague, the chairman of the Senate Finance Committee, shares many of the concerns that we have expressed. I would respectfully ask that he take a careful look at the alternative incremental credit in the House package when the bill goes to conference.

BIPARTISAN CAPITAL GAINS

Mr. LIEBERMAN. Mr. President, I wanted to express my concerns about one provision that the Finance Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced, S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country.

Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from

that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a personal residence at a loss, that loss is treated as a personal loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. No way presently exists for a family to be made whole from a genuine economic loss.

S. 959, a bipartisan bill that has 45 cosponsors, included a provision to provide some relief to individuals who have experienced these true losses. S. 959 would permit capital loss treatment for loss on the sale of a principal residence. This proposal is fair, because it provides that both losses and gains on sale will be treated as capital, not ordinary.

Until the 1980's, the possibility of suffering a loss on the sale of a principal residence was all but unthinkable. Then, starting with the oil price shocks of the early 1980's, we have experienced a series of regional economic slowdowns and recessions that have caused the prices of housing to fall. These occurred first in the Southwest, and more recently in California and New England.

Several things—all bad—can happen when the value of a residence falls. In southern California and in New England in the early 1990's, homeowners began to experience what came to be known as the upside-down mortgage. Homeowners found that the value of their homes had fallen so much that the home was worth less than the outstanding debt of the mortgage. Thus, if the homeowners were forced to sell, they would come out of the deal actually owing their lender more money than they had from the sale. Then, if the banker forgave some portion of the debt, the homeowners actually owned income tax on the transaction. In 1992, it was estimated that 41 percent of the sales in California were in this upside down position. The problem of upside down mortgages in resolving itself in California, but it is a disaster for people caught in that bind. In New England, the downward trend in home values continues; thus, the problem of upside down mortgages persists.

In my home State of Connecticut, many areas have experienced steep price declines since 1989. For example, the median sales price for an existing home in Hartford was $165,900 in 1989. The median home price has since declined to $133,400. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,500 or over 24 percent of their home value over a 5-year period. This represent a loss of roughly $6,500 per year.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden metro areas has since declined to $139,600. The purchaser of a median priced home in New Haven-Meriden, in 1989 would have lost $23,800 or slightly more than 17 percent of their home value by 1994. This represents an average annual decline in home equity of $4,760.

If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. People who experience a loss on the sale of their home are often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the capital loss rules, it may take many years for a family to recoup the true losses they have experienced. Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have incurred.

This important provision is contained in the House bill. It is my hope that the chairman and the conferees will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.

Mr. HATCH. Mr. President, I understand the concerns of my friend and colleague from Connecticut and am sympathetic to his position. This provision is an important one and is the right thing to do. A home is often the biggest and most significant investment that most families ever make. It is only fair that an economic loss on that investment be treated the same as economic losses on other investments. This is especially so since we tax the gain from a sale of that home. Like Senator LIEBERMAN, I urge the chairman and the conferees to adopt this provision when it is considered in conference.

AMENDMENT NO. 297

Mr. KYL. Mr. President, there are a number of good things in this amendment, which was offered by my colleague from Arizona, JOHN MCCAIN. If the amendment were crafted differently and was more limited in scope, I would support it.

For example, I have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such promotional activities are a reasonable and fundamental cost of doing business for any industry.

If the return on every dollar spent on export promotion is as good as MPP proponents suggest in terms of jobs and exports, then it would seem to be in the industry's own best interest to bear that cost itself.

I understand that the industry's resources are finite. One more dollar could always be spent on promotional activities, particularly if each dollar produces significant gains in sales. But at some point, the agricultural industry, like any other industry, decides that it cannot expend any more; that the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts that the industry itself is unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. Earmarking scarce dollars for politically well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year's National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the House version because I served in the House of Representatives when that bill arose, and I was 1 of only 12 who voted against it at the time.

The regular formula for distributing highway dollars is based on such objective factors as population, miles of roads, and vehicle miles traveled. Earmarking, however, is based largely on politics. For example, last year's House bill, just 10 States got 55 percent of the total funds available. Not coincidentally, those States were represented by 36 of the 64 Public Works Committee members. California, home State of the chairman of the House Public Works and Transportation Committee which produced the bill, took 15 percent of the total, about $290 million, for 51 projects. Arizona, by contrast, got just three projects, for a total of $15 million.

Had the earmarkings been eliminated and the funding been distributed according to the ISTEA formula instead, Arizona would have gotten between $800,000 and $7.6 million more than it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have

refrained this year. I support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years.

The amendment also eliminates funding for the U.S. Travel and Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be a part of this package. They are not pork. They are not corporate subsidies.

I am talking primarily about the B-2 bomber. This is a program that is in the national interest. This is not an Arizona project, so I am not here to defend it because my State has a major economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President, the Nation's long-range bomber force consists primarily of two aircraft: the B-52 and the B-1. The 95 B-52's are all over 30 years old, and their ability to penetrate modern air defenses is doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

For 40 years, the United States relied on forward presence, or the deployment of large forces in bases around the world engaged in almost constant maneuvers or exercises. With the decline in defense spending and the withdrawal of U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally from North America. In the past 6 years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 61 percent.

Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The combination of a bomber with stealthy low observable, long-range, and precision strike capabilities provides the Nation with a competency never before achieved. With its range and large payload, B-2's can penetrate enemy air defenses and disrupt enemy advances in the critical early hours of conflict, before other forces arrive. Later in the conflict, B-2's can strike deep to interdict enemy follow-on forces or high-value strategic targets without fight escort.

I have two letters that I ask unanimous consent be printed in the RECORD—one from seven former Secretaries of Defense, and the other from the former air commander of the Desert Shield/Desert Storm Air Forces—that further expand on the vital importance of the B-2 bomber to the future Armed Forces of the United States.

For these reasons, I believe that the B-2 remains an integral component of our future national security, and I must, therefore, oppose the amendment.

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

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing you to express our concern about the impending termination of the B-2 bomber production line. After spending over $20 billion to develop this revolutionary aircraft, current plans call for closing out the program with a purchase of only twenty bombers. We believe this plan does not adequately consider the challenges to U.S. security that may arise in the next century, and the central role that the B-2 may play in meeting those challenges.

At present the nation's long-range bomber force consists primarily of two aircraft the B-52 and the B-1. The 95 B-52's are all over thirty years old, and their ability to penetrate modern air defenses is very doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

Even after all twenty B-2's are delivered, the inventory of long-range bombers will total barely 200 aircraft. This is not enough to meet future requirements, particularly in view of the attrition that would occur in a conflict and the eventual need to retire the B-52's. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases, it will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B-2 was originally conceived to be the nation's next generation bomber, and it remains the most-effective means of rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception.

The logic of continuing low-rate production of the B-2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it also will not be the end of the B-2. We urge you to consider the purchase of more such aircraft while the option still exists.

MELVIN LAIRD.
DONALD RUMSFELD.
CASPAR WEINBERGER.
DICK CHENEY.
JAMES SCHLESINGER.
HAROLD BROWN.
FRANK CARLUCCI.

JUNE 22, 1995.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue the B-2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for me to write as in more than thirty years of service in the Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as whether or not to purchase a specific aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States can safely terminate B-2 stealth bomber production at 20 aircraft. As the former Air Commander of the Desert Shield/Desert Storm Air Forces, I feel a duty to put the B-2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this nation's B-2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

Since B-2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B-2 program and America's bomber production capability are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may lose its manned bomber force, and the unique capabilities it provides. A new bomber would take from 15-20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future government sinking many times that amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first "B-3" entered service. The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

In my opinion, the B-2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload—not found in other elements of our military forces. As we base more and more of our forces in our homeland, the bomber's intercontinental range enables us to respond immediately to regional aggression with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

When the B-2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how precision weapons delivery from stealthy platforms provides a devastating military capability. The F-117 stealth fighter proved its effectiveness on the first day of the war when 36 aircraft flew just 2.5 percent of the sorties, but attacked almost 31 percent of the targets.

In the past, employing bombers for critical missions against modern air defenses required large, costly packages of air escort and defense suppression aircraft. The B-2's unmatched survivability reduces the need for escorts and defense suppression aircraft. As we found in the Gulf War with the F-117,

stealth allows the U.S. to strike any target with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F-117 sortie was worth approximately eight non-stealth sorties. To put B-2 capabilities into perspective, consider that the B-2 carries eight times the precision payload of the F-117, has up to six times the range, and will be able to accurately deliver its weapons through clouds or smoke. What does all of this mean? It means that a single B-2 can accomplish missions that required dozens of non-stealthy aircraft in the past.

Many may wonder why the Department of Defense would advocate terminating the most advanced weapon system ever developed. The B-2 program was cut by the Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivered aircraft have demonstrated, without qualification, that the B-2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funneled out of the Air Force, and people's careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B-2's revolutionary capability is a threat to their own services' continuing relevancy. Just the opposite is true, long-range, survivable bombers will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships. The troops on the ground have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B-52 strikes used to demoralize the Iraqi Army. If anyone needs B-2s, it's our soldiers and sailors. Some people harp on the issue of the B-2's cost. The Air Force, at times, seems at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F-22. All miss the point. True the B-2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B-2 lowers the risk to our men and women. The B-2 will allow us to accept lower levels of overall military spending without compromising our security.

As we approach this year's critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B-2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B-2 is designed to extend America's defense capabilities into the next Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER,
General, USAF (Ret.).

LOW-INCOME HOUSING TAX CREDIT

Mr. D'AMATO. Mr. President, I would like to express to my colleagues my deep concern regarding the House Ways and Means Committee's proposal to sunset the low-income housing tax credit in 1997, pending a GAO review of the management of the program.

The low-income housing tax credit is the Federal Government's principal rental housing production program that results in significant private capital for the development of affordable rental housing. Since its inception, as part of the 1986 Tax Reform Act, the low-income housing tax credit has enjoyed broad bi-partisan support in both the House and the Senate. In fact, that support became very clear when 75 percent of the House and nearly 90 percent of the Senate went on record as recently as 1992 in support of legislation to make the credit permanent. It was made permanent in 1993.

Since 1986 the credit has mobilized private capital for public benefit, attracting more than $12 billion in private investment. Nearly 800,000 units of rental housing for lower income working families and the elderly have been constructed or rehabilitated with the low-income housing tax credit. This has lead to the creation of 90,000 jobs each year and resulted in $2.8 billion in wages and $1.3 billion in additional tax revenues.

According to the New York State Housing Finance Agency, in 1994, in our home State, over 6,100 units of rental housing were made possible because of the credit. Over 77 percent of those units, 4,700, were for low-income families, and the production of those units directly resulted in an estimated $520 million of housing investment in the State of New York.

That being said, does the Senator from New York find it as puzzling as I do that the Way and Means Committee would propose to terminate the low-income housing tax credit without benefit of hearings; without any authoritative evidence that the program is not working in an effective manner, and, especially before any review or study?

Mr. MOYNIHAN. Mr. President, I agree with the comments of my friend and colleague, Senator D'AMATO, and I share his concern of the proposed sunset of the low-income housing tax credit.

The credit is a principal incentive which Congress makes available to individuals and corporations to invest in apartment construction and rehabilitation devoted to low-income renters. In fact, when the credit became permanent in 1993, it attracted many new, high quality developers to the construction of lower income rental housing. Today, the credit accounts for one out of every four apartments constructed nationwide and virtually all of the production of affordable rental housing.

More importantly, State agencies, acting under Federal guidelines, manage the low-income housing tax credit program with a minimum of red tape. Under current law, the credit is limited to $1.25 per capita per State and is administered by the States on behalf of the Federal Government. Investors provide equity to projects in exchange for the credits to facilitate the development of affordable units. For 1995, based upon our Nation's current population, the States will allocate $325 million in credits, resulting in about $1.85 billion of private equity being invested in affordable housing. I could not agree more that to sunset one of the best examples of public-private partnership and Federal-State partnership would be a grave error.

Mr. D'AMATO. Mr. President, I would like to express to Chairman ROTH and Senator MOYNIHAN my hope that when we go into Conference on this matter, that the Senate will be firm in its resolve not to recede to the House on any proposal that would sunset the low-income housing tax credit.

Mr. ROTH. Mr. President, I certainly understand and sympathize with the concerns raised by Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the aisle that reflect the concerns you have voiced today. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

ANWR

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation opening the coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge [ANWR] is seen by many as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolverines and a multitude of migrating and other birds. It is a place where, in the summer months, the porcupine caribou herd roams, and rainbows arch over the Beaufort Sea.

But a different kind of national treasure is thought to underlie the surface of a small portion of ANWR. That national treasure is oil—huge quantities of oil. Simply put, the coastal plain of ANWR represents the most highly prospective onshore oil and gas region remaining in the United States.

Mr. President, if developing the large quantities of oil thought to underlie the coastal plain would, as some suggest, destroy the 19 million-acre Arctic National Wildlife Refuge, then the question of proceeding would be much more difficult. But that is not the issue. The coastal plain can and should be developed in an environmentally sound and sensitive way that does not despoil the wildlife and other environmental values of ANWR.

Mr. President, the case for authorizing oil and gas leasing in ANWR is as compelling as it is straightforward.

First, oil and gas activity would be limited to only a small portion of the refuge—the 1.5 million-acre coastal plain—also known as the "1002 area—" an area some 30 miles wide by 100 miles long. Absolutely no oil and gas activity

would take place on the remaining 17.5 million acres that comprise the refuge. In fact, approximately eight million acres of ANWR, have already been designated as wilderness, including 450,000 acres of the coastal plain region between the Aichilik River and the Canadian border.

In addition, the technology and the environmental sensitivity of oil field development in the Arctic have evolved steadily in the 25 years since the oil and gas facilities at Prudhoe Bay, which are located directly west of ANWR, were designed and constructed. Given these advances, and with the environmental safeguards that are currently applicable to all oil and gas activities in the Arctic, development can take place on the coastal plain in an environmentally sound manner without lasting effects.

It is a serious misconception that oil and gas development would destroy the habitat functions of the coastal plain. In reality, full leasing, development and production from three oil fields, for example, would affect less than 1 percent of the area's land surface by both direct habitat alteration and by indirect effects such as road dust or local impoundments of water along a road. Ninety-nine percent of the area would remain untouched; and the area's habitat will not be altered sufficiently to affect the size, growth rate, or regional distribution of fish and wildlife populations. The area will continue to be used by caribou for calving and will continue to provide habitat for polar bears, brown bears, wolves, muskoxen, and millions of birds.

The only significant change on the coastal plain would be aesthetic. If oil is discovered, widely spaced roads, pipelines, drilling structures, and support facilities would be visible on the coastal plain. Of course, even these facilities would be removed and graveled areas rehabilitated when production ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife inhabiting the coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central arctic caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in the early 1970's. The caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects.

While it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently comprise the herd. In the first place, the herd calves throughout a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in certain areas of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of this huge calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW. line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area three times in recent history, and there have been, and continue to be considerable subsistence activities in the area.

Mr. President, let me now turn to the crucial importance to our Nation of the oil thought to underlie the coastal plain. For the foreseeable future, oil will remain a critical fuel for the United States and other industrialized nations. Currently, the United States consumes approximately 17 million barrels of oil per day. The Department of Energy projects that under current policies, this may well increase to almost 23 million barrels per day by the year 2010. At the same time, domestic production will decline, resulting in a significant increase in foreign oil imports. DOE projects that domestic production of crude oil will fall from today's level of 6.8 million barrels per day to 5.4 million barrels per day in 2010, a decrease of 21 percent.

Imports of foreign oil are projected to increase substantially by the year 2010, making our Nation dependent on foreign oil for more than 60 percent of our oil needs. This level of import dependence is extremely dangerous for our country.

More significantly, as the Persian Gulf war tragically demonstrated, oil is an important strategic resource, and the struggle to control that region's vast oil reserves can disrupt the delicate balance of peace in the Middle East.

United States oil imports are so massive, and the use of oil is so ingrained in our economy, that a substantial demand for oil will exist for the foreseeable future—certainly well into the early decades of the 21st century. This conclusion remains firm in the face of even the most optimistic assumptions about increases in energy efficiency and the substitution of alternative fuels. These policies alone will not suffice. Unless domestic oil production is encouraged and pursued, oil imports will continue to rise, and rise significantly.

By any measure, the coastal plain of ANWR represents the primary prospect for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is not significant, that it is only a 200-day supply. However, a single field large enough to supply this country with all of the oil it consumes for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day's supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the coastal plain of the ANWR is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses for the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources for the United States. In general, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has prepared a preliminary analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimate. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different

methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is very difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is expected for an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of at least 4 billion barrels.

In addition to the benefits to the country provided by the oil itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000 which will result in bonus bids totalling $2.6 billion. The legislation requires a 50-50 revenue split with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget plus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintenance, repair and rehabilitation projects at our Nation's national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for nearly 25 percent of our domestic oil production, is projected to decline to approximately 300,000 barrels per day, the minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploring for oil on the coastal plain and developing what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate this portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and to make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the Senate Energy and Natural Resources Committee alone has conducted 11 hearings and built a solid and thorough record on this issue. Our committee has voted on three separate occasions, on a bipartisan basis, to proceed with oil and gas leasing.

It is now time for the Senate to exercise its responsibility and make a decision with respect to oil and gas development on the coastal plain. Our Nation can have the benefit of the oil from ANWR, the revenues leasing will generate, and still preserve the beauty and the vastness of the Refuge.

THE BUDGET RECONCILIATION BILL—A MISSED OPPORTUNITY TO MAKE SMART CHOICES

Mr. DORGAN. Mr. President, during the past few days, we have had extensive debate on the Senate floor about what this budget reconciliation package will mean for the Medicare and Medicaid programs. Now, as we reach the conclusion of this debate, I want to explain some of the reasons why I must oppose it.

I want to say right off that I am deeply committed to ensuring that the Medicare and Medicaid programs will be here for the millions of older Americans, children, and individuals with disabilities who have come to rely on the services they provide. Thanks to Medicare, 99 percent of senior citizens, who have paid into the program during their working years, now have affordable, guaranteed health care coverage. Likewise, Medicaid provides a much-needed safety net for 36 million low-income elderly nursing home patients, the disabled, and pregnant women and children.

WHAT IS THIS DEBATE ABOUT

The debate on Medicare and Medicaid has centered not so much around whether projected spending for these programs should be reduced, because Members of both parties agree that this should be done. Instead the focus has been on how much spending should be cut. I believe we should limit the rate of growth of both of these programs to a more sustainable level so that they will continue to be here for the beneficiaries who depend on them.

However, I am convinced that the bill before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spending per beneficiary be held to a growth rate of 4.9 percent, while private health insurance will continue to grow at a rate of 7.6 percent per person. It is just not reasonable to expect Medicare to grow by such a small amount, especially when you consider that 200,000 Americans become eligible for the program each month. Just within the 7 years covered by this budget reconciliation bill, Medicare will insure 3.7 million more people than it does today.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency. But according to Medicare actuaries, only $89 billion is needed to extend the Medicare trust fund for 10 years.

So why does this bill cut Medicare by $181 billion more than the experts say is necessary—and cut Medicaid by $182 billion? Because this budget reconciliation bill also contains $245 billion in new tax breaks, which will largely benefit the wealthiest in our country.

It is wrong to be making an unprecedented level of cuts to Medicare, Medicaid, and other critical programs while granting tax relief to people making over $100,000 per year and to large corporations taking advantage of tax loopholes.

THE IMPACT OF THIS BILL ON SENIORS

Under this bill, older Americans will be asked to pay more for their health care but can expect to get less for their money. The premiums that seniors pay out of their Social Security checks for their physician services will double and could exceed $100 per month in the year 2002. On top of that, their deductible would also increase from $100 to $220.

I fear that these premium and deductible increases could make Medicare coverage out of reach for some seniors. Most older Americans have very modest incomes. Seventy-five percent of seniors on Medicare live on less than $25,000 a year. And in North Dakota, older Americans get by on even less: 70 percent of our State's seniors have incomes of under $15,000.

Already, seniors spend 21 percent of their income for health care. In 1994, the average older American spent $2,500 for medical care, prescription drugs, and other health care expenses not covered by Medicare—and this figure does not even include the cost of long-term nursing home care, which averages nearly $40,000 a year.

In addition to costing more, the quality of health care older Americans receive could very well decline. That is because the portion of the cuts that do not fall directly on beneficiaries will be borne by doctors, hospitals, and other health care providers, who even now are reimbursed at only 68 percent of the amount they get from private payors. As a result, these cuts could create a second-class health care system for the elderly.

This budget bill, with its $182 billion cut in projected Medicaid spending, could force hundreds of thousands of middle-income seniors and their families to shoulder the substantial burden of nursing home costs also. It turns the Medicaid program over to the States in the form of a block grant and repeals the Federal guarantee for nursing home care for the 60 percent of nursing home patients who qualify for Medicaid—many of whom have already used up their life savings in paying for their care.

CONSEQUENCES OF MEDICAID "BLOCK GRANT" FOR THE NEEDY

Our Nation's seniors are not the only ones who are being asked to pay the bill for tax breaks for wealthy individuals and corporations. Children will also lose under this plan to turn Medicaid over to the States as a block grant. One in five children currently receive their health care through Medicaid. Their care is not expensive—they represent 50 percent of all Medicaid beneficiaries but receive only 15 percent of the benefits—but it is important. The immunizations and preventive care that these kids receive help them to grow up to be healthy, productive adults. I think it is also worthwhile to note that fully half of the kids now covered by Medicaid are members of working families.

Under the block-grant plan, North Dakota will receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care simply will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

IMPACT ON THE HEALTH CARE SYSTEM

I believe cuts of the magnitude called for under this bill will also devastate the health care system, particularly in rural areas. The majority of the savings achieved in Medicare will come through reducing payments to hospitals, home health care providers, and other health care professionals.

One-quarter of all rural hospitals are already operating at a loss and are in danger of being shut down if their payments are reduced further. Rural hospitals are dependent largely on Medicare and Medicaid patients for their livelihood. Between 1983 and 1993, the number of rural hospitals dropped by 17 percent, compared to a 2-percent drop in urban hospitals. Rural residents already suffer from a lack of access to medical care, and additional hospital closings in rural areas will further exacerbate this problem.

Cuts of this magnitude cannot be absorbed within the Medicare system alone, so health care providers may have no choice but to shift the burden for their uncompensated costs onto their other patients in the form of higher fees. I do not think it makes much sense to force higher costs for medical bills and health insurance onto the rest of the population, thereby pricing health care out of reach for even more Americans.

A RESPONSIBLE MEDICARE ALTERNATIVE

I believe it is possible to balance the budget and protect Medicare at the same time, and I supported Senator ROCKEFELLER's amendment that would have accomplished this goal. Under Senator ROCKEFELLER's amendment, Medicare's projected spending would have been reduced by $89 billion, ensuring the solvency of the Medicare trust fund through 2006. This $89 billion is a far more reasonable reduction and could have been achieved without new increases in costs for people who simply cannot afford to pay more for health care and without damaging our world-class health care system.

Senator ROCKEFELLER's amendment would have been paid for by scaling back the tax breaks provided in this bill for wealthy Americans. I thought that was the responsible course of action, but unfortunately, a majority of my colleagues did not agree, and the Rockefeller amendment was rejected by a 53–46 vote.

A BETTER CHOICE FOR MEDICAID

As with Medicare, I agree that we must control Medicaid's rate of growth, but I cannot support the block-grant approach provided for in this bill. As an alternative, I voted for Senator BOB GRAHAM of Florida's amendment to reduce Medicaid's projected spending by a more reasonable $62 billion over 7 years. This amendment would have maintained the guaranteed safety net that Medicaid provides for more than 36 million needy older Americans, the disabled, pregnant women, and children. At the same time, the Graham amendment would have restrained the rate of growth of the Medicaid program by placing a cap on Federal funding based on per person spending, rather than by a flat block grant. But, as with the Rockefeller amendment for Medicare, Senator GRAHAM's amendment was defeated by a narrow 51–48 margin.

I am very disappointed that a majority of my colleagues have let these opportunities for responsibly controlling Medicare and Medicaid spending pass them by, and I simply cannot support the more drastic, and unnecessary, cuts to spending still called for in this bill.

President Clinton has indicated that he will veto this bill unless these severe cuts are moderated before it reaches his desk. It is my sincere hope that, after this bill is vetoed, Congress and the President will be able to work together to achieve a reasonable compromise that will provide the fiscal discipline the American people want from the Federal Government without sacrificing the health security they deserve.

Mr. ROCKEFELLER. Mr. President, in my view, every United States Senator will be making a statement about their fundamental priorities as they cast their vote on this reconciliation package. While each and every vote cast on this floor is key, today's vote on the reconciliation bill is a pivotal one about the future of our country, and the role that our Federal Government can and should play in the lives and well-being of American families.

While most of our debates have focused on budget numbers, I have tried to talk about the families and the real people who depend on Medicare, Medicaid, student loans and all the other major programs affected by this legislation in many serious ways. The provisions of this bill will have enormous impact on children, families, and seniors in West Virginia and every State in this Nation. We should be mindful of them as we cast our votes.

I want to be clear. I believe we can and should balance the Federal budget and eliminate the Federal deficit. This is a vital goal, but it is equally important to ensure that the burdens of achieving a balanced budget are responsibly and fairly shared among all Americans. I strongly feel that we should not balance the budget on the backs of seniors, poor children, and working families.

The programs that would be drastically cut and changed by this reconciliation bill often are the difference between security and insecurity, health and illness, and sometimes life or death for seniors and American families who depend on Federal programs for their health care security.

I was proud to take the lead in offering the first major amendment to this budget, designed to save Medicare, a historic program that has provided seniors with health care security since 1965, giving them peace of mind and a higher quality of life. While some may cast aspersions on Medicare, I believe it is one of America's proudest achievements.

Our amendment was not to retain the status quo. We know we must make changes in the system to restore the solvency of the Medicare trust fund. But the solvency of the trust fund does not require cutting Medicare by $270 billion. Such extreme cuts will threaten health care for 30 million seniors—330,000 of them living in West Virginia—and further erode our health care system.

For seniors, the reconciliation package means that their Medicare deductibles will double and their premiums will skyrocket. When the average income of seniors citizens is $17,750, and they pay 21 percent of their income on health care, they are incredulous and petrified to hear that their Medicare is being used to pay for tax breaks

and tax give-aways to far, far wealthier Americans and every imaginable kind of corporation.

I cannot go back to West Virginia and hold town meetings in senior centers as I often do, and justify a vote to slash Medicare by $270 billion in order to finance tax breaks for the wealthy. West Virginians believe in fairness and common sense, and this attack on Medicare flunks that test.

Seniors will not be the only ones hurt by the budget's Medicare cuts. West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years, and I fear that some of our hospitals may not survive such cuts.

For real people in West Virginia who depend on Medicare for their health care coverage, the Republican rhetoric about Medicare reform rings hollow.

And Medicare is not the only health care program slated for harsh cuts under this Republican plan. This reconciliation package also seeks to cut Medicaid funding by a whopping $187 billion over 7 years.

People need to understand what such harsh cuts mean. Medicaid covers poor children, pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about children, parents and grandparents. What happens to parents struggling to balance raising children and caring for aging parents?

If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 a year for "some" families lucky enough to qualify, but the loss of Medicaid nursing home coverage will cost those same families $16,000 to $30,000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer's Disease as long as she could at home. But as her mother's illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother's meager savings are exhausted, Julie and her family with be much, much worse off. That child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt, not helped by drastic health care cuts in this package. In my State of West Virginia, over 21 percent of our residents rely on Medicaid so their are countless more stories and fears about what will happen to aging parents.

And it will not just be individual families hurt by the Medicaid cuts. The health care system in my State is fragile, rural hospitals are already closing, and West Virginia cannot absorb more than $4 billion in cuts without cutting necessary health care services, including basic issues like infant mortality. A recent newspaper article made this point, clearly with a headline: "[Medicaid] Cuts may affect infant mortality." The article reports that my State, thanks to Medicaid-funded programs, has reduced its infant mortality death rate from 18.4 deaths per 1,000 in 1975 to 6.2 deaths per 1,000 in 1994 which is even better than the national rate of 8.0 deaths per 1,000 births. As Governor, I helped start the effort to reduce infant mortality, and I must protest any action that turns back the clock.

We should not tolerate backwards steps on basic health care objectives like reducing infant mortality.

I understand that Medicaid needs reform and Democrats offered an amendment that suggested reducing the growth in Medicaid spending in a responsible way with a per capita cap. I truly want meaningful reform of health care, but I do not believe that creating a Medicaid block grant is serious reform, it is merely passing the buck—or actually passes far fewer dollars and far greater problems onto States. This is not fair to states or to the Americans who desperately need health care from Federal programs.

The assault on families in this budget package is not limited to the attacks on federal health care programs. Republican rhetoric claims that this legislation will help families, because of its $500 child tax credit.

As chairman of the National Commission on Children, I am clearly on record in support of a child tax credit, but it must be a refundable credit so that children in all families can benefit. Unfortunately, the child tax credit in this legislation is not refundable, and every amendment offered to make it even partially refundable was rejected. Consequently, over 20 million children are excluded from this child tax credit, and I do not think this is fair. These children are in families earning less that $30,000 a year and their parents clearly need and deserve a tax break.

To add insult to injury, not only do Republicans deny the credit to such hard working, low-wage families, Republicans are paying for the credit by imposing a tax increase on working families by cutting $43 billion from the earned income tax credit (EITC).

There has been much debate about the EITC, and I want to clearly state that EITC is tax relief only available to working families, and it is designed to offset payroll taxes, which often are a greater tax burden for low wage families than personal income taxes.

The Republican leadership dismisses these arguments, saying that their tax package helps middle class American families. And this sounds good, but I want to know how they define the middle class?

In my State of West Virginia, we believe that parents who go to work every day and struggle to raise their children are middle class, admirable and deserving of support and encouragement. More than 65 percent of our taxpayers are working hard but earn less—less than $30,000. For many of these families, they will worse off, not better, under this bill.

Just 2 years ago, these working families were promised tax relief. Now Republicans are reneging on that deal and raising taxes on families earning less than $30,000. For families with two or more children, their taxes will go up an average of $483. For families with one child, taxes will keep an average of $410. This will hit more than 77,000 families with children in my state of West Virginia alone.

But such numbers can be numbing. We need to get beyond the rhetoric and look at real families.

A real family, like the Helmick family of New Milton, WV, will be worse off, not better. The Helmick family has 6 children, ranging in age from 15 to four. Mr. Helmick works full-time as a truck driver for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC for baby furniture and to buy a used truck so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped.

Families like the Helmicks cannot claim all of the child tax credit, and they will be hurt by the cuts in EITC; and I doubt that they will be claiming capital gains tax breaks either. For them, this package does little more than renew their cynicism since it reneges on promises made just two years ago when we told families to play by the rules, go to work instead of on welfare, and we will offset your payroll taxes so that you do not have to raise your children in poverty.

Mr. President, I am not against the idea of tax cuts. In fact, I would support a limited tax cut for the most needy families and some relief from burdensome taxes for companies that need it. But when you look at this bill, while it was artfully crafted to appear to have something for everyone, it is really a farce. It is full of tax pork for the wealthy and goodies for those who do not really need it.

On the surface, how can anyone oppose tax relief for families? The Republican rhetoric is, as always, good—tax relief for families, and help for companies to create jobs. It sounds so tempting to give hundreds of billions of dollars away, but when you look at what

Republicans are really doing, and how they are doing it, you say "wait a minute." Their rhetoric is one thing, but reality is another.

They say they are balancing the budget, but they will add nearly a trillion dollars to our national debt in the next seven years. They say the tax cut is "paid-for" by an economic dividend of balancing the budget; but the truth is, they are adding $224 billion to our accumulated debt over the next 7 years. In fact, if you add interest, the total is more like $268 billion. Republicans are borrowing money from the middle class they claim to be championing in order to give money away to their fat-cat friends.

Think of it as a new credit card with a credit line of $1,000. Every month you take home $1,500 after taxes and spend $1,600. You can do that because you have the credit card. You are charging $100 every month to your credit line. Well, after 5 months, you owe the $500 you borrowed on your credit card, plus interest. Then you decide, you don't like spending more than you are making, so you force yourself to spend less. For the next 7 months, you bring your spending down from $1,600 a month to $1,585 a month, then $1,570 a month, then $1,570 a month, and so on until at the end of the year, you are spending $1,500 a month. You have a Balanced Budget. You are making $1,500 a month and spending $1,500 a month. Then you look at your balance you owe on your credit card, and guess what—you owe $800, plus interest. How did that happen? You went on a path to balance in June when you owed $500 plus interest, but in December you owe more than $800. It is because every month on the way to balance, you borrowed more to cover your over spending. You borrowed $85 dollars one month, $70 the next, $55 the month after that, and so on.

That is what this bill does. Sure, it gets us to balance by 2002, but along the way, we are going to overspend what we take in by nearly $1 trillion. Every year between now and 2002 we spend more than we take in. We borrow more to pay for this tax cut. That is $1 trillion added to our accumulated debt. And of that $1 trillion added to the debt, $224 billion is this tax cut ($268 billion, if you add the interest). If we got rid of this tax cut, or reduced the tax cut down to size of the real economic dividend, our deficit every year would be less, and the accumulated debt, the amount the American people owe, would be less.

This debate is about priorities. Do we want to run up the bill on all of us in order to give money to the wealthy to buy goodies? We are running up our national credit card so the richest Americans—those who earn more than $350,000 a year—get a tax cut of $5,600. Do we want to spend $40 billion on capital gains tax cuts for the richest Americans and recklessly slash health care for the most needy and the elderly? Do we want to cut taxes by more than $1.7 million on estates worth over $5 million by raising taxes on the working poor?

Again, West Virginians have a basic sense of fairness. How can I tell them that families are helped, when the result of this whole bill will mean that poorest fifth of Americans would shoulder fully half of the program cuts with an average loss of nearly $2,500 per family in 2002.

At the same time, the Treasury estimates that almost two thirds of the proposed tax breaks would go to the wealthiest fifth of the population, who would gain almost $1,400 per family.

In fact, the top one percent of families—those with incomes greater than $350,000 per year, would get an average tax break of $5,600. The capital gains tax break will benefit taxpayers with incomes between $20,000 and $30,000 by about $5 on average. Those making more than $200,000 will receive an average cut of nearly $1,500. How is that fair?

How can the authors of this bill look at themselves in the mirror, let alone look into the faces of the most needy in America, and say they are doing the right thing? I cannot go to town meetings in my state and tell West Virginians that I supported such an unbalanced, unfair deal.

I could support tax cuts that were honestly paid for. I could support tax cuts that are fair. But I am not going to support tax cuts paid for by raising the money from those least able to pay. I even think we should consider giving some limited tax relief to American companies that need it. In fact, I am proud to be the author of a bill that helps capital intensive industries such as steel, chemicals and wood-paper compete in the international market place. That bill fixes something called the Alternative Minimum Tax (AMT) by changing the way companies calculate the value of their property. Unfortunately, even in this bill of tax goodies, and big corporate give-aways, the Republicans could not do it right, they only did a half measure.

The problem these companies have is that under the AMT, the tax code does not recognize in any real-world way, how to depreciate their assets. Steel, chemicals, wood-paper, any capital intensive industry, where the costs are high and the margins are low, these companies need to change the length of time they have to depreciate their assets. This is known as lives. Under the current tax law, after 5 years, a U.S. steel maker under AMT recovers only 37 percent on its investment in new plant and equipment, versus 58 percent in Japan, 81 percent in Germany, 90 percent in Korea, and 100 percent in Brazil. This is largely a result of the AMT. It is my strong hope that conferees will look at this with an understanding eye. I am hopeful that they will. When you look at how the AMT puts our companies in such a competitive disadvantage, I think the need for corrective action is clear.

Another disturbing provision tucked into this package is the proposal to eliminate the 50 percent interest exclusion on loans to purchase employees stock ownership plans (ESOPs). As Governor of West Virginia, I worked closely with the workers of Weirton Steel to establish an ESOP that kept the mill open, and the community alive. Weirton officials question if they could have secured the financing necessary in the early 1980's to create this ESOP without this tax incentive. Weirton Steel is the largest private employer in West Virginia in my State. Despite the rocky roads that the American steel industry has faced, Weirton Steel has not only survived, it has invested almost half a billion dollars in modernization so that it will be internationally competitive into the next century—and it remains an ESOP with involved employee owners. There are other successful ESOPs in West Virginia, and I hope there will be more in future. We should not slam the door shut on such future ESOPs by eliminating the incentives for start-up loans, in my view.

Mr. President, this legislation is nearly 2000 pages long—I shudder to think about other provisions tucked quietly into this bill. It was presented to the Senate on October 23, 1995, and we are expected to vote on the legislation with only four days of review. There has not been time to carefully analyze this massive legislation or to learn what is on each and every page—much less understand the complicated interactions of the policies and programs.

I do know that on page 1851 there is a proposal that I cannot support. It is a secret deal in the Republican budget that fundamentally breaks the promise of lifetime health benefits to retired coal miners and their widows—nearly 30,000 of whom live in the State of West Virginia. More than 60,000 more older miners and their widows are living in almost every other State in this union.

I am obligated to expose the secret and to call it what it is—a pay-off for a set of greedy corporate interests that will not stop until they have bled the miners' health trust fund of every last dollar needed to protect miners benefits. Republicans say they will restore the miners' trust fund—the miners' only real guarantee that their health care will be there for them when they need it. I am not willing to gamble with the health security of 92,000 miners and their widows.

I cannot abide such a tawdry provision in this or any reconciliation package. I appeal to whatever sense of justice my Republican colleagues have. I

ask them to give up this corporate payoff before any more damage is done.

This cruel little provision might have escaped the notice of many. In a package that gives away billions, this provision only deals with tens of million of dollars. But these millions mean security to the older miners and their widows. This small trust fund is all they have, and it stands between their health security and a peace of mind, and financial ruin and destitution when illness strikes these aging miners.

This is a complicated issue with a long history, and I could go into excruciating detail. But the bottom line is that Republicans want to hand over the money that is keeping the retired miners' health trust fund solvent to a group of special interests represented by high priced lobbyists.

As I have said earlier, I want my colleagues to think about the real families that could be truly hurt by this package.

The day after the Finance Committee reported out their handiwork that demolishes the health security of more than 92,000 miners and their widows for the sake of a few of the biggest and most profitable companies in this country, I went back home to West Virginia. I went back to tell miners and their wives what happened.

The miners I met with were reserved, as many miners are, especially older ones who have seen it all, strikes and cave-ins, shut-downs and lay-offs. They have learned to accept a lot in life. They have seen their coworkers killed, or mangled, or dismembered. They have suffered the loss of their own lungs and limbs. They do not have a lot to pass onto their families in temporal terms, but they have good hearts and an incomparable work ethic. They have the values they hold dear—their emphasis is on community and family and caring. And until the Senate Finance Committee action, they had their UMW health card to get their health benefits and knew that it would protect their wives when they died too hard and too soon.

One miner who worked for decades in the mines told me starkly, "We're worried to death." He said, "Now it seems like the company is the one running the whole show. They want to do away with us when we were the ones that worked and built everything else."

His question was this, "What's going to happen to me if I lose my benefits?" And he answered his own question with, "They'll probably put me in my grave before my time."

Another miner, characteristically, worried about his wife who is a diabetic. "Gosh, if I had to buy her medicine, I do not know what would happen." Today retired miners' health benefits pay for prescription drug medication after they meet a modest deductible.

Under this reconciliation package, on page 1851, we are taking away the health care security of these miners, and we are reneging on a promise made more than 40 years ago by President Truman and reaffirmed just 2 years ago and signed into law by an act of Congress.

If this Senate and this society renege on this promise to a group of old frail miners, their wives and their widows, what are we worth?

Does a promise have no meaning? Does a contract not matter? Can a law be repealed when it becomes inconvenient for a profitable, influential businesses?

Promises do have meaning for me.

When I was elected by the people of West Virginia, I made promises to West Virginians. I vowed to fight for their priorities and do my best to serve them and respond to their concerns.

This reconciliation bill simply does not respond to the real needs of West Virginia families, or even West Virginia businesses.

The Republican rhetoric is good, but the reality is that this bill will undermine health care for seniors, raise taxes on working families, and jeopardizes the health care for retired coal miners and their families.

This is a harsh package that hurts real people, and I strongly oppose it. With this legislation, we are walking away from basic commitments to some of the most needy individuals in our society, and the debate over this package has saddened me greatly. We can, and we should, do better as public servants. I will vote no, and continue to fight against such unfair legislation.

Mr. FRIST. Mr. President, before we vote on final passage of S. 1327, a historic piece of legislation, I wanted to submit for the RECORD materials presented to me by the United States Chamber of Commerce. The Chamber of Commerce is an ardent supporter of S. 1327 and believes that the time is now to balance the Federal budget, streamline Government programs and, importantly, save the Medicare Program. Included in these materials is a study prepared by the Chamber of Commerce regarding the economic impacts of Medicare. I commend this study to my colleagues and thank the chair.

I ask unanimous consent that the material be printed in the RECORD.

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

[From the U.S. Chamber of Commerce, Economic Policy Division]

THE MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in Medicare Part A is to raise taxes. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase costs on small and large businesses alike and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the next 75 years requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy. Analysis by the Economic Policy Division of the U.S. Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,926 from the current $870.

A small business employing 25 such workers would be liable for an additional $13,200 tax payment per year.

When aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $95 billion lower 10 years later. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that they represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($716 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. The HI program is financed primarily by payroll taxes. Employees and employers each pay 1.45% of taxable earnings, while self-employed persons pay 2.90%. In 1994, the HI earnings caps were eliminated, meaning that the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term disabled. It generally pays 80% of the approved amount for covered services in excess of an annual deductible ($100). About a quarter of the funding comes from monthly premiums ($46.10 in 1995); the remainder comes from general tax revenues and interest.

Medicare is not a means-tested program. That is, income is not a factor in determining an individual's eligibility or, for Part B, premium levels. Age is the primary eligibility criteria, with the program also extending to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $132.8 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare's Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program's six trustees—four of whom are Clinton appointees (cabinet secretaries Robert Rubin, Robert Reich and Donna Shalala,

and commissioner of Social Security, Shirley Chater)—reported the following conclusions:

Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years. . . (HI Annual Report, pg. 2)

Under the Trustees intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years. (pg. 3)

The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)

. . . the HI program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program. (pg. 28)

The Trustees believe that prompt, effective and decisive action is necessary. (pg. 28)

The same set of Trustees also oversees the Medicare Part B program. In their 1995 Annual Report, they wrote: "Although the SMI program (Medicare Part B) is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program. . . Growth rates have been so rapid that outlays of the program have increased 53% in the aggregate and 40% per enrollee in the last 5 years." (SMI Annual Report, pg. 3).

"The Trustees believe that prompt, effective and decisive action is necessary." (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994: Medicare expenditures reached $160 billion, just over half the size of Social Security; Expenditures grew 11.4% from 1993; Eleven cents of every dollar spent by the federal government went to Medicare; Medicare represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost three times the 3.6% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

MEDICARE AND THE FEDERAL BUDGET

Medicare spending must be addressed as part of the solution to balancing the federal budget. That's because spending on federal entitlements—such as Medicare, Medicaid and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth, as the leading edge of the Baby Boom generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget, they're already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures is spent on entitlements; only a third go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution.

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program's revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees' Annual Report, this shortfall isn't temporary. Instead, it will balloon to be about seven times larger in 1997, which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends. 1996 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away. The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2006. Under the pessimistic scenario, the fund is exhausted as early as 2001. In other words, within the next 6 to 11 years, it's virtually certain that Medicare will be insolvent—unless we take action.

The danger of inaction was made clear last winter when the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering: Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health research, the FBI, support for education, and the federal judicial system.

Ten years later, the situation is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion's share of interest payments on the national debt.

MEDICARE'S IMPACT ON THE PAY STUB

In addition to detailing the projected dissipation of Trust Fund under current law, the Trustees' Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%, applied to all payroll earnings. A worker earning $30,000 a year in salary or wages, for instance, is directly taxed 1.45%, or $435 annually, for Medicare Part A, the hospital insurance program. Employers then match that payment with another $435, resulting in $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don't stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums and interest), a portion of the worker's and the firm's general income taxes are also financing Medicare. The Trustees reported that $36.2 billion of general funds were used to pay Medicare Part B claims in 1994.

TABLE 1.—MEDICARE HOSPITAL INSURANCE PAYROLL TAXES

	Current law employee plus employer	To balance the HI trust fund over the next—					
		25 yrs.		50 yrs.		75 yrs.	
		Additional tax	Total HI tax	Additional tax	Total HI tax	Additional tax	Total HI tax
Tax rates (pct.)	2.90	1.33	4.23	2.68	5.58	3.52	6.42
Pct. increase over current law	.....	.....	45.9	.....	92.4	.....	121.4
Payroll earnings:							
$10,000	$290	$133	$423	$268	$558	$352	$642
20,000	580	266	846	536	1,116	704	1,284
30,000	870	399	1,269	804	1,674	1,056	1,926
40,000	1,160	532	1,692	1,072	2,232	1,408	2,568
50,000	1,450	665	2,115	1,340	2,790	1,760	3,210
60,000	1,740	798	2,538	1,608	3,348	2,112	3,852
70,000	2,030	931	2,961	1,876	3,906	2,464	4,494
80,000	2,320	1,064	3,384	2,144	4,464	2,816	5,136
90,000	2,610	1,197	3,807	2,412	5,022	3,168	5,778
100,000	2,900	1,330	4,230	2,680	5,580	3,520	6,420

Source (for all tables): 1995 Annual Report of the Board of Trustees. Medicare Hospital Insurance Trust Fund. Table 1.D3, page 22. Calculations and macroeconomics simulations by the U.S. Chamber of Commerce.

To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other

federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next fifty years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON BUSINESS

Because it's levied on employment levels, not income, the payroll tax due remains the same through both good and bad economic times. This feature accentuates the pain of a downturn on employers, who need to pay the tax regardless of profitability. Consequently, relative to the income tax, a payroll tax can be particularly punishing to start-up firms or companies trying to weather a drop in business.

Table 2 shows the liability for Medicare HI payroll taxes that would be faced by firms of various sizes. Total liability is shown under current law and under the three tax rates computed by the Trustees to bring the HI trust fund in balance over periods of 25, 50 and 75 years.

For instance, a 25-person firm where the average worker earns $20,000 per year is currently liable for a $7,250 tax payment for the Medicare HI program (for their contribution, the workers themselves would be taxed an identical amount). To balance the trust fund over the next 25 years, the combined employee and employer tax rate would have to rise from the current 2.90% to 4.23%. Assuming that the liability continues to be evenly split between the employee and employer, the firm will face an HI payroll tax of about 2.11% per worker. For our 25-person firm, the total HI payroll tax would rise from $7,250 to $10,575 per year.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY

[In dollars]

	Number of employees—						
	5	10	25	50	100	500	1,000
Average salary: $20,000:							
Current law	1,450	2,900	7,250	14,500	29,000	145,000	290,000
To balance Medicare HI over the next:							
25 yrs	2,115	4,230	10,575	21,150	42,300	211,500	423,000
50 yrs	2,790	5,580	13,950	27,900	55,800	279,000	558,000
75 yrs	3,210	6,420	16,050	32,100	64,200	321,000	642,000
Average salary: $30,000:							
Current law	2,175	4,350	10,875	21,750	43,500	217,500	435,000
To balance Medicare HI over the next:							
25 yrs	3,173	6,345	15,862	31,725	63,450	317,250	634,500
50 yrs	4,185	8,370	20,925	41,850	83,700	418,500	837,000
75 yrs	4,815	9,630	24,075	48,150	96,300	481,500	963,000

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends upon the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000 and 2004. This gives us snapshots of the short-term, intermediate-term and long-term impacts on economic output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, billions of 1987 dollars			Percent difference from baseline in given year		
		1997	2000	2004	1997	2000	2004
25 Years	4.23	−68.4	−30.1	−36.1	−1.2	−0.5	−0.5
50 Years	5.58	−137.1	−60.5	−72.1	−2.4	−1.0	−1.1
75 Years	6.42	−179.4	−79.4	−95.6	−3.1	−1.3	−1.4

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level of production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline, amounting to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts the Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump from 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 4.—IMPACT ON EMPLOYMENT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
25 Yrs	4.23	−1.2	−0.6	−0.8	−0.9	−0.4	−0.6
50 Yrs	5.58	−2.4	−1.2	−1.6	−1.9	−0.9	−1.2

TABLE 4.—IMPACT ON EMPLOYMENT—Continued

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
75 Yrs	6.42	−3.2	−1.5	−2.2	−2.5	−1.2	−1.5

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $61,200 earned (in 1995, and rising afterward). That is, the model is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly greater job loss and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that using payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

U.S. CHAMBER OF COMMERCE—MEDICARE FAX POLL RESULTS

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9% of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is "severely out of financial balance and the Trustees believe that . . . prompt, effective and decisive action is necessary".

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in 7 years, according to the system's trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Trustee's Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We need your help. Please review the following questions on Medicare reform and FAX back your answers by close of business October 16.

1. Medicare should be modernized by adopting the market-based strategies private employers and health plans are using successfully to improve health care quality and control costs. These strategies include improving the quality of care provided to enrollees, increasing enrollee choice by expanding health plan options, and reducing the rate of growth of Medicare spending.

Agree, 98.9 percent; Disagree, 0.6 percent.

2. Two competing approaches to Medicare reform have emerged in Congress. One more limited approach addresses the Medicare Part A trust fund, delaying insolvency for an additional 2 years through $89 billion in Medicare savings, primarily from reducing the rate of growth in Medicare payments to providers. A second approach is more comprehensive in nature, addressing both Medicare part A (hospital bills) and Part B (doctors' bills). Medicare Part A would be protected at least an additional 10 years through $270 billion in Medicare savings achieved through increased competition and reducing the rate of growth in Medicare payments to providers. Which approach would you favor?

Limited, 4.3 percent; Comprehensive, 94.6 percent.

3. Do you favor or oppose the following elements of Medicare reform?

a. Provide seniors choices between competing health plans including existing fee-for-service benefits.

Favor, 97.4 percent; Oppose, 1.6 percent.

b. Contain Medicare spending by increasing competition and reducing the rate of growth in Medicare payments.

Favor, 97.4 percent; Oppose 2.0 percent.

c. Increase managed care options for seniors.

Favor, 93.8 percent; Oppose, 4.3 percent.

d. Provide seniors a medical savings account option.

Favor, 88.2 percent; Oppose, 7.3 percent.

e. Allow provider groups (i.e., doctors and hospitals) to offer health coverage (similar to managed care networks) directly to seniors—a new proposal known as provider sponsored networks or PSNs.

Favor, 91.9 percent; Oppose, 5.7 percent.

f. Require managed care plans to provide out-of-network benefits at a higher cost to the beneficiary.

Favor, 72.4 percent; Oppose, 18.2 percent.

4. For purposes of tabulation: Type of Organization: Business, 93.2 percent; Chamber, 4.3 percent; Other, 2.0 percent. Approximate Number of Employees: under 10, 29.4 percent; 10–49, 39.5 percent; 50–99, 12.5 percent; 100–249, 8.6 percent; 250–499, 3.7 percent; 500–4,999, 3.7 percent; 5,000 +, 1.4 percent.

U.S. CHAMBER OF COMMERCE

MEDICARE REFORM—THE RIGHT SOLUTION

Medicare reform is at the crux of the balanced budget battle. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to The Board of Trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustees 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium-sized businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year old Medicare program by increasing competition while restraining the growth in spending. Key elements include:

New choices for Medicare beneficiaries.—Beneficiaries will have the right to choose traditional Medicare, as well as the right to choose from a range of private health plan options including managed care and medical savings accounts. These options will provide beneficiaries access to expanded benefits—such as prescription drugs, preventative care, vision and hearing care.

Restrained growth in Medicare spending.—Increases in Medicare spending are inevitable, given the growing Medicare population and the advance of medical technology. However, controlling the rate at which Medicare spending increases is as important to our Nation's future financial health as Medicare itself is to seniors' health care. Introducing competition to Medicare through beneficiary choice of health plans will help control costs and allocate resources more fairly and efficiently than Washington bureaucrats.

Accountability.—The Republican plan allows seniors to take responsibility for making their own health care decisions. Instead of relying on a bureaucratic, one-size-fits-all approach, seniors will decide which health plans are best for them. Doctors and hospitals are also held accountable. The bill rewards beneficiaries who report incidences of waste, fraud and abuse, and strengthens penalties for anyone who defrauds Medicare.

By passing this legislation Congress will have taken timely, critical action that will avert the program's bankruptcy and preserve and protect it for current recipients and future generations.

MEDICARE REFORM

MYTHS VS. FACTS

Myth. The House and Senate Republican Medicare reform plans will cut $270 billion from Medicare in order to finance a tax cut for the wealthy.

Fact. The Medicare Trustees' 1995 Annual Report urged Congress to take "prompt and decisive action" to address the solvency of the Medicare Part A (hospital insurance) Trust Fund and the continued growth of Medicare Part B (supplemental medical insurance).

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Under the Republican plan, spending per beneficiary will still *increase* 40% by 2002 ($4,800 to $6,700).

Tax cuts provided for in the budget resolution were considered and passed independent of Medicare. Whether or not taxes are cut, Medicare will still go broke in 2002.

Myth. It's not fair for Congress to take away benefits from seniors who have faithfully paid into the system.

Fact. The average Medicare beneficiaries receive far more than they put in. The average two-earner couple receives $117,200 more in benefits than it contributes to the program. The average single-earner couple receives $126,700 more.

By encouraging competition among private health plans based on quality and innovation, the Republican plan may lead to increased benefits.

Myth. The business community is a latecomer to the Medicare debate.

Fact. Medicare's influence is felt throughout the business community—from payroll taxes paid to finance the system to insurance premiums inflated by consistent shortfalls in Medicare reimbursements to providers who in turn shift the cost to private health plans.

Myth. Medicare is in trouble because doctors and hospitals charge too much. The Republican plan fails to address this problem.

Fact. Solving the Medicare crisis will require the participation of all—doctors, hospitals, seniors and other taxpayers—particularly the business community. Just as no one factor led to the Medicare crisis, a single-minded focus on providers won't get us out. Further, cost controls have failed miserably whenever they have been tried—particularly in the context of health care.

ECONOMIC ACTIVITY AND JOB CREATION IN PUERTO RICO

Mr. DOLE. Mr. President, as the Congress moves toward final action on budget reconciliation legislation for this year, I want to call special attention to an initiative by Gov. Pedro Rossello of Puerto Rico which seeks to establish a wage credit-based economic program as an alternative to the current law section 936 tax credit.

Neither the House nor Senate was able to give the Governor's proposal an extensive examination before either body adopted revisions to the section 936 credit. Together with my colleague from New York, Senator D'AMATO, I was pleased to ensure that the Senate version more appropriately recognizes the positive impact that many U.S. companies have on the Puerto Rican economy and the jobs they provide.

I commend Governor Rossello's efforts to enhance economic opportunity in Puerto Rico through the creation of new jobs, and I would hope that the Congress will continue to give serious consideration to the Rossello program as an alternative to programs such as under section 936. It is important to ensure that any program focused on Puerto Rico will create new jobs and encourage self-reliance and economic growth.

ANWR

Mr. LIEBERMAN. Mr. President, the Arctic National Wildlife Refuge has been managed as one of the great wilderness systems on this continent since the Eisenhower administration. It is on par with other great places in our natural history, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, Denali, and others. Opening the Arctic Refuge to oil and gas development violates our stewardship commitment to future generations, fails to use common sense about balancing the budget, and destroys a highly threatened piece of our American heritage. This is a unique and treasured land that must serve our entire Nation for the next century, not just a few for the next few years.

Unnecessary development of significant Federal lands like the Arctic Refuge is not the way to balance the budget. The amount of oil that can potentially be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment, to be worth it. The U.S. Geological Service estimates a 95-percent chance of only 148 million barrels of oil in the refuge. The Congressional Budget Office assumed 3.2 billion barrels in its budget scoring of oil and gas leases, more than 20 times this recent USGS estimate. Worse yet, CBO assumed oil prices of $38.60 in 2000, compared to Energy information administration estimates of only $19.13—less than half.

And, it is possible that 90 percent of the lease revenues could go to Alaska instead of balancing the Federal budget. Under the most favorable scenario, only 50 percent of the revenues go to balancing the budget.

Clearly, the $1.3 billion we have been promised by CBO in return for developing this pristine area is a massive fiction, like so many other bogus asset sales in this budget. The OMB has estimated oil and gas revenues more realistically to be between $750 million and $850 million, assuming Alaska does not sue for a 90-percent split. If the State does, these revenues fall another 40 percent.

We all hope for another strike like Prudhoe Bay. But the simple reality, based on the very best geological science and economics available today, is that the next Prudhoe Bay is expansion of Prudhoe Bay itself, and the continued implementation of national energy conservation programs. The next major source of energy is not a long-shot wildcat strike in an undeveloped Alaskan wilderness area, and it is incorrect to suggest otherwise. And it is ironic that we would consider opening this refuge to oil drilling now that the oil export ban will be lifted, as the House and Senate have voted to do. If the ban is lifted, a substantial percentage of the oil that is recovered, if any, would be exported to Asia, according to the Cato Institute, the Congressional Research Service, and others. The Arctic Refuge oil supplies would do almost nothing to help our energy security.

Make no mistake, environmental impacts to the refuge would be severe and irreversible. The Arctic National Wildlife Refuge includes the calving grounds for one of the largest caribou herds in North America, the porcupine herd of 152,000. It supports several thousand native Americans whose hunter-gatherer culture depends directly on it today as it has for 20,000 years. Over 200 species of plants and animals thrive in the refuge, including Muskoxen, Snow Geese, Arctic Foxes, Arctic Grayling and Arctic Char. It is the only natural area in the United States with all three species of North American bears—the black bear, the grizzly bear, and the polar bear. It is one of the most pristine areas in our Nation, untouched by development, and the last of its kind. Environmental studies repeatedly show that oil development is not compatible with the protection of these resources. Biologists from Federal and State agencies and universities conclude that oil development will harm the calving success of the caribou herd, and reduce its long term numbers very significantly.

The remaining 90 percent of the Alaskan North Slope is already open to oil and gas leasing. Is it too much to protect what little we have left? Let us honor our history of conservation, and the future of generations to come, by protecting this last Arctic Refuge.

I ask unanimous consent that a letter from the President on this subject be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, October 26, 1995.

The Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Washington, DC.

DEAR JOE: Thank you for your letter today seeking my views on striking the provision in the reconciliation bill that would open the coastal plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas drilling.

Because you stated that the Senate is expected to vote on that motion in the near future, let me be clear: I will veto any reconciliation bill that opens ANWR to drilling. Consequently, I strongly support your and your colleagues' efforts to remove this provision from the bill. In my view, this is one of the most significant environmental votes facing Congress, posing a clear choice between protecting a unique, biologically-rich wilderness and pursuing a misguided energy policy.

I appreciate and support your efforts to preserve ANWR.

Sincerely,

BILL.

Mr. LEVIN. Mr. President, I voted against the combined Harkin and Dorgan amendments. The constraints imposed by the rules under which the budget reconciliation bill is being considered create an absurd situation in which important, complex, and difficult amendments are decided without

debate. In addition, because a long stack of votes are occurring at 7½ minute intervals, there is little time to properly consider each provision. This is exacerbated when amendments are quickly patched together with little warning on the floor.

In this case, I oppose the capital gains portion of the Dorgan-Harkin combined amendment. While I do favor capital gains reform, focused on long-term capital gains investment, in my view, the provision goes too far by imposing a lifetime limit of $250,000 on capital gains deductions. The Tax Code is complex enough without adding a restrictive difficult to administer, lifetime provision such as this.

I do support the Harkin portion of the amendment which attempts to further restrict the so-called Benedict Arnold loophole.

Because the two amendments were joined together on the Senate floor, I could not vote on one and against the other. Therefore, I voted no on the amendment.

Mr. FRIST. Mr. President, I would like to speak briefly in support of the antitrust reform provisions of section 15021 of the House Medicare bill. While these provisions are not in the Senate Medicare bill, they are important, because they permit doctors to form Provider Service Networks without having to go through an institutional intermediary such as another HMO or an insurance company. I urge my colleagues to support the provisions when this bill goes into conference, as they are modest antitrust law reforms that will improve the quality and lower the cost of our health care system.

I would first like to discuss how the House Medicare bill defines a Provider Service Network (or, as it is more commonly known, a "PSN"). In the House Medicare bill, a PSN is one of the new organizations that provides Medicare beneficiaries with an option called MedicarePlus. That option allows a beneficiary to select a health plan called a MedicarePlus Product that would be offered by a MedicarePlus Organization. A MedicarePlus Organization is a private sector organization, such as an HMO, that offers a health plan that meets Federal Medicare standards. A Provider Sponsored Organization is a type of MedicarePlus Organization which is owned and operated by affiliated providers, such as hospitals and physicians. A PSN is an organization owned and operated by providers that contract with a Provider Sponsored Organization to provide services to Medicare beneficiaries.

Current antitrust law effectively makes it automatically illegal for a group of physicians to set up a PSN or Provider Sponsored Organization, yet permits insurance companies, HMO's and other nonphysicians to do so. This does not make sense.

Why do we want to reform the antitrust restriction so that physicians can form PSN's and directly compete with insurers and HMO's for Medicare beneficiaries? Because permitting physicians to do so will bring physicians to the table and will encourage increased competition that will provide Americans with better quality health care at a lower price. By permitting physicians—rather than just accountants—to oversee the treatment systems, Medicare beneficiaries will receive better quality care. By removing an insurance company's significant administrative costs from the picture, Medicare beneficiaries will likely see more of their health care premium dollars go to patient care and less to overhead.

It should be made clear that section 15021 of the House bill does not exempt physician networks from antitrust law. I, for one, would oppose it if it did. I too believe that physicians must be held accountable under the antitrust laws if they in any way engage in anticompetitive price fixing.

Under the House Medicare bill, physician networks would remain subject to all of the antitrust statutes that currently exist. The only limitation on antitrust enforcement is that physician created networks which meet the standards for PSN's (as set forth in section 15021(b)(6) of the House bill) would not be considered automatically unlawful. If the formation or operation of these networks can be shown to harm competition, then the DOJ, FTC, or a private party could challenge them. This is precisely the same rule which applies to the formation and operation of joint ventures in other industries in America. This provision does not exempt physician networks from the law. It holds them accountable for their actions, while giving them the opportunity to compete.

I again urge all of my colleagues to support the antitrust provisions of section 15021 of the House Medicare bill.

Mr. HATCH. Mr. President, while we are considering the manager's amendment to S. 1357, the Balanced Budget Reconciliation Act, I want to take this opportunity to comment on the health provisions contained within the bill and on some of the changes made therein.

First of all, I know there is a great deal of consternation about the impact of the reductions in spending growth for Medicare and Medicaid contained within this bill.

Medicare and Medicaid have been tremendously successful programs by anyone's measure, providing life-saving and life-sustaining services to literally millions of persons over the last three decades. These programs need to be continued.

What we cannot continue, though, is the high rate of growth in these entitlement programs. This growth, quite simply, is contributing significantly to the deficit situation which is bankrupting our country.

Mr. President, there is no disagreement on either of these points.

As I see it, the question before us today is not whether to act but, rather, how to act.

The question is not "Why?," as some assert, but rather the more critical "Who, what where, when, and how?" we bring these programs under fiscal control while preserving vital services for the people who need them.

It is clear that we are poised to act on a bill with very far-reaching ramifications. This is not a responsibility I take lightly.

Indeed, the prospect of reforming programs which have become such an integral part of America's health care delivery infrastructure over the past 30 years is a daunting one. The implications are enormous—enormous for all participants in the health care system, be it patients or those who provide services to patients.

Consider how intertwined the Medicare and Medicaid programs have become with our health care delivery system.

A whole generation of facilities has been built based on funding from the Federal Government. A whole generation of health care professionals has been trained with funding from the Federal Government, with many academic health institutions continuing to rely heavily upon Medicare graduate medical education funds for their viability. Facilities providing care to the underserved in both rural and urban areas count on Medicare revenues to keep from closing their doors. And, coverage policy in many private health care plans and our military health care system have been designed around Medicare policy.

Viewed from another perspective, more than a generation of Americans has come to rely on the vital services provided under Medicare and Medicaid. This is true for our seniors and disabled who are eligible for Medicare, and for the pregnant women and children, the aged, the blind, and the disabled who receive services under Medicaid.

The prospect of the reforming this system can be threatening to all I have mentioned, because it represents a change, a change from the norm we have all come to accept.

But I ask you to consider how different the America of 1995 is from the America of 1965. The health care of today is very different from that of 30 years ago. We have come a long way. Life expectancy has improved dramatically thanks to the fruits of medical research and technology. Fee-for-service medicine is no longer the only option for delivery of services.

But we have paid a heavy price for those improvements. Continued increases in health care costs run rampant have fueled the deficit, and have priced health care out of the reach of

many, with a concomitant impact on the Medicaid roles and the States' ability to provide services.

I implore my colleagues to see the changes in this bill today as an opportunity to make the system better and more responsive to our national needs, needs which extend beyond health care services to, indeed, the health of our country as a whole.

The deficit situation cannot be ignored any longer. It is unfair to our children, and to their parents and grandparents.

The alternative to change is foreboding. The costs of these entitlement programs is running out of sight, endangering the future viability of the programs as well as the Federal and State budgets. By all recognition, Medicare's hospitalization trust fund could go bankrupt, starting as early as next year. The work of the Medicare Trustees, reinforced by testimony the Finance Committee heard from the former Chief Actuary of Medicare, Guy King, indicates that we will need at least $165 billion for the hospitalization fund alone to stave off bankruptcy by 2002. Payment for physician services under Medicare, funded 68.5 percent from tax revenues, is rising in double digits.

Medicaid spending also remains troublesome.

The Congressional Budget Office has estimated that the Federal share of Medicare will grow over 10 percent a year between now and 2002, about three times the projected rate of inflation.

The changes made in S. 1357 are a good start to resolve these problems.

For Medicare, the bill provides greater opportunity for seniors and the disabled to participate in innovative coordinated care programs, many offering the possibility of benefits beyond the traditional Medicare package such as preventive services, eyeglasses, and prescription drugs.

It is clear that the health care marketplace has been undergoing dramatic changes over the last several years and that further changes will occur.

As new types of provider organizations and reimbursement practices have evolved over recent years, many observers note that the traditional doctor-patient relationship is being redefined.

There are complex and novel issues presented by the introduction of many new nonphysician decisionmakers in the care of patients.

Tensions often are apparent between the twin goals of providing high quality care and providing this care at reasonable costs. That became evident in our consideration of S. 1357, as we struggled to make certain that the bill afforded Medicare beneficiaries the opportunity to participate more in the medical marketplace, while still maintaining a marketplace which allows doctors, nurses and other health care professionals to continue to practice traditional medicine.

There is no doubt that coordinated care offers abundant opportunities for our citizens, including those who participate in the Medicare and Medicaid programs, to receive quality health care services in the most cost-effective setting.

On the other hand, as we enter this new era in which managed care becomes the norm, it is imperative that the overriding goal be to save lives, not dollars.

What I am saying is that managed care is an important option in the health care delivery continuum, but so is traditional medicine.

Fee-for-service medicine must be maintained as an option for patients who are more comfortable with that kind of care, as well as for providers who do not wish to join the managed care environment.

One of the major innovations in this reconciliation bill is that it will encourage the further participation of Medicare enrollees in managed care plans. A key feature of the legislation is that it allows individuals to choose the type of health care delivery system which best meets their needs. This bill allows American citizens, not the Federal Government, the freedom to make this choice.

I think it critical that Medicare beneficiaries be allowed to choose the provider of their choice, if this is important to them. In fact, the bill contains a provision I authored which will make certain that beneficiaries are provided with the information they need to gauge whether the Choice plan they contemplate joining allows them this freedom.

At the same time, I do not think it is fair for the Congress to require that all plans mandate this option, since participants in Medicare do have flexibility under the current bill.

I also want to note, in turn, that health care providers will face individual choices with respect to which type of health care delivery system best meets their career plans. Some will prefer a managed care environment, while others will not. They, too, must have the freedom to make that choice.

And that freedom must not be in name only.

For some time, I have been concerned that we are destroying the incentives providers have to practice good medicine in America. Liability concerns, cost constraints, regulations which impede technology development, change in medical education reimbursement—all these can have a stifling effect on the ability of health care professionals to be satisfied with the work environment.

That is one reason I was so pleased about the House inclusion of a medical liability reform proposal. Medical liability reform is something I have been fighting for for some time, and I am pleased at the House action.

We had a good deal of debate about this "creative tension" in the health care delivery system during development of the physician service network (PSN) provision contained in this bill. Doctors and hospitals were rightly concerned that because of time-consuming state certification requirements, they would not have the ability to form networks to compete as providers under the new choice plans.

On the other hand, insurers were equally concerned that we not create a system which put them on an uneven footing, by allowing certain organizations to escape the solvency requirements and antitrust requirements in current law.

The challenge we face is to find the right balance between two competing interests—our intention to provide seniors with real health care choices, especially in rural areas, and our interest in making sure that those who provide that care have the incentives to do so, but to do so with accountability. I am satisfied that the bill before us meets these goals, but I will be monitoring its implementation carefully to see that it continues to measure up.

The bill before us today also provides beneficiaries with the option of establishing medical savings accounts, something I have long favored.

Under the proposed legislation, Medicare recipients would have new options, including the choice to remain in the traditional Medicare program, enroll in a health maintenance organization or select a high-deductible health insurance plan with a Medical Savings Account [MSA].

I support the MSA provisions in the pending bill and hope they will remain in the final measure as signed into law.

MSA's are personal, individual accounts used to pay for routine and preventive health care and are combined with high-deductible, catastrophic health insurance that pays for major expenses. Beneficiaries pay all medical bills up to the deductible with the MSA and out-of-pocket funds. Catastrophic insurance pays all expenses above the deductible.

Among the benefits of MSA's for seniors will be that they will have first-dollar coverage for such services as primary and preventive care, in contrast to Medicare, which has deductibles and copayments. Seniors could use their MSA's for items not covered by Medicare, such as eyeglasses and prescription drugs. In addition, patients would have incentives to make prudent choices because they would have a larger voice in deciding how their health care dollars were spent.

Medical Savings Accounts incorporate sound economics while encouraging individual responsibility and choice.

Mr. President, I want to point out that, contrary to many reports, the

Balanced Budget Reconciliation Act does not cut Medicare spending. It does not reduce benefits. It does not breech our contract on Medicare.

And contrary to the assertions of many, Medicare spending will increase each year under this budget. It will rise from $181 billion this year, to $277 billion on fiscal year 2002, a $96 billion or 53 percent increase. Expressed differently, Medicare benefits will increase from an average of $4,800 per person this year, to $6,700 in fiscal year 2002, hardly a cut.

For Medicaid, S. 1357 allows a 5 percent rate of growth over the next 7 years, with the program rising from $157 billion this year to about $220 billion in 2002. I don't believe this increase of 40 percent can be termed a "cut", either.

Many of my constituents have visited with me, offering both praise and criticism about the provisions in this bill.

On a positive note, I have received much positive feedback about the provisions in this bill which inject a greater measure of private market competition in Medicare. I have received warm endorsement of the provisions in the bill which allow the States to tailor their Medicaid programs to their own individual needs. In particular, many in my home State are pleased about the opportunity to work cooperatively together with our Governor to craft a Medicaid program which meets the needs of Utahns, not the needs of those in States across the Nation.

I have been troubled for some time about the inflexibility of the Medicaid program, and the innumerable, burdensome requirements placed on the programs at the Federal level. This has served to drive up costs as well as to hamstring innovators—such as our Governor, Mike Leavitt, who have some wonderfully creative ideas on how to deliver services in a cost-efficient manner.

I recall the story Governor Leavitt related to me about the Medicaid waiver he was trying to submit to the Health Care Financing Administration. Utah had determined that it could provide services to more citizens if it restricted the dental benefit to children and adult emergencies. HCFA turned him down cold.

Later, at a briefing with my staff, HCFA said they had not turned any States down on coverage requests such as this. When queried, they admitted that they had told the State not even to submit the request, because it would be turned down.

This bureaucratic gamesmanship is a prime example of why Utah should not have to seek approval from Washington of its State Medicaid plan. The changes made in this bill, which will allow Utah to design its own coverage program without a Federal waiver—with continued coverage for the aged, disabled, and pregnant women and children—are in important step and a needed step.

That being said, I want to acknowledge openly and frankly my understanding of the tremendous unease the prospects of major change cast upon our citizenry.

This is a natural reaction to change.

I make the pledge that if we receive evidence that these reforms are not working, I will do everything I can to seek an immediate legislative solution in this Chamber.

I want to make that perfectly clear.

I, too, am not completely satisfied with each and every provision, as I will discuss in a moment. I am hopeful that in the conference we can improve these provisions.

But first of all, I want to discuss how the changes in this bill affect Native Americans. This is a subject in which I have a great interest.

NATIVE AMERICANS

Mr. President, I am especially pleased that the pending legislation contains needed provisions, which I sponsored in the Finance Committee, relating to the impact of Medicare and Medicaid reform on Native Americans.

As we debate this important legislation, I want to be sure that we do not lose sight of how these reforms will affect Indian Country.

And, I would point out to my colleagues that Congress has recognized the severely depressed health conditions existing among Native Americans. But there is a need to do more.

The current health status of Native Americans and Alaska Natives remains disproportionately low compared to the rest of the population. The Native American (IHS Service Area) age-adjusted mortality rates remain considerably higher than for the rest of the U.S. population.

Between 1989 and 1991 the mortality rates for Native Americans were 440 percent greater for tuberculosis; 430 percent greater for alcoholism; 165 percent greater for accidents; 154 percent greater for diabetes mellitus; and 46 percent greater for pneumonia and influenza.

These rates are simply unacceptable. The bottom line is this: per capita spending for Indian health care is approximately one-half that of the national average. In 1992, the U.S. National Health Expenditures per capita was $3,155 compared with an IHS Health Expenditures per capita of $1,489.

The Native American provisions contained in this bill serve to reaffirm our Nation's commitment with respect to Medicare and Medicaid reimbursement for Indian Health Service (IHS) programs.

In effect, these provisions will help ensure that Indian health care continues to improve even as the Medicare and Medicaid programs undergo reform. Given the limited budget within which the Indian Health Service (IHS) and tribes must operate their health care programs, third-party income such as Medicare and Medicaid collections allow the IHS to supplement their already limited Federal appropriation.

The IHS estimates that it will collect $54,250,000 in Medicare and $120,750,000 in Medicaid reimbursements in fiscal year 1995. These collections allow the IHS and tribal programs to improve the conditions of their facilities and free-up financial resources to provide critical health care services which they could not otherwise provide.

In fiscal year 1995, Medicaid funds were used to pay the salaries and benefits for 1,379 FTEs. These staff positions include physicians, nurses, pharmacists, lab technicians, and support staff. The loss of Medicaid funds would mean that these health care providers would have to be laid off due to a lack of money to pay salaries and benefits.

The impact of the loss of this money would be tremendous because these funds supplement direct clinical care to Native Americans and Alaska Natives. It would result in the closure of critical inpatient services in some of the most remote parts of the country. The outcome would be truly devastating to the already poor health status of Native Americans.

Under existing law, IHS facilities like other health care providers are eligible to receive Medicaid and Medicare payments for services provided to eligible Indians. The provisions I sponsored will ensure that these arrangements remain in place in the new world of reformed Medicaid.

In addition, my language expands coverage to tribally owned and operated health care facilities as well as urban Indian organizations that serve Medicaid-eligible Indian patients.

Approximately 1.4 million Native Americans receive health care services from the IHS and from Indian owned and operated health care facilities.

In an effort to address the poor health conditions of Native Americans and because of the fact that Indian health programs are almost entirely dependent upon Federal appropriations, Congress made two exceptions to allow the IHS and tribal health facilities to participate in the Medicare program and use their reimbursements to improve facility conditions.

First, Congress made an exception to the general ban against payments to Federal providers of services for IHS and tribal health providers pursuant to Section 401 of the Indian Health Care Improvement Act and Section 1880 of the Social Security Act.

Second, Congress made an exception to the requirement that the IHS and tribal health facilities meet all of the conditions and requirements for participation in the Medicare program, as long as those facilities provided the Secretary with a plan for achieving compliance.

Pursuant to Section 1880 of the Social Security Act, hospitals and skilled nursing facilities owned by the IHS may receive reimbursement from Medicare for services provided to eligible Indians.

Pursuant to Section 1861(aa)(4)(D) of the Social Security Act, outpatient facilities that are owned by the IHS are eligible to be Federally Qualified Health Centers and participate in the Medicare program, but only if those facilities are operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations.

Tribally-owned health care facilities are able to participate in the Medicare program subject to the same conditions and requirements as any other provider in the State in which those facilities are located.

As this bill moves through the legislative process, I hope these provisions can be maintained, because I believe we should do all we can to enhance the level of health care provided to Native Americans through the Medicare and Medicaid programs. I thank my colleagues on the Finance Committee and the Committee on Indian Affairs for their support and assistance in developing these important provisions.

Another issue in which I have a great interest is the Federal effort to prevent health care fraud.

FRAUD AND ABUSE

The problem of health care fraud and abuse is certainly one of the most troubling aspects in our Nation's health care delivery system. By most estimates, the costs of health care in the United States approach $1 trillion annually. By the turn of the century, the figure will exceed $1.5 trillion annually, consuming up to 16 percent of the Nation's gross domestic product.

Even by most conservative estimates, billions of dollars are lost to waste, fraud and abuse. Health insurance experts, the FBI and other agencies agree that fraud and abuse account for as mush as 5 to 10 percent of total health care expenditures. As much as $27 billion taxpayer dollars are lost to fraud and abuse in the Medicare and Medicaid programs. These losses are clearly not insignificant.

Clearly, the Federal Government must take steps to put a halt to the deliberate and unscrupulous act of defrauding individuals, health care providers, and State and Federal Governments in the provision of health care.

The anti-fraud and abuse provisions contained in this legislation essentially represent the provisions contained in S. 1088, which was developed by our colleague from Maine, Senator COHEN.

I am extremely pleased that the final compromise addressed my concerns about provisions in S. 1088 which would have authorized the use of health care fraud related fines and penalties to finance investigative and enforcement efforts of the HHS IG's Office and efforts at the Justice Department.

I have long opposed this so-called bounty hunter provision, as I strongly feel it would create an incentive for Federal investigators to forgo prosecution or exclusion where warranted in favor of large civil penalties that would provide additional funding for investigators.

Under the new language as contained in the bill, all penalties, fines and damages collected will be deposited into the Medicare trust fund. Under this arrangement, the original purpose to strengthen the financial solvency of the Medicare program is further achieved. I strongly believe this approach serves to address my concerns as well as ensuring the integrity of the anti-fraud and abuse provisions.

I do have remaining concerns, which I will work to address in conference.

First, I would note that the bill does not uniformly punish those who would attempt to defraud a health care plan or provider or those who would conspire with others to do so. Nor does it appear to criminalize attempts or conspiracies to embezzle.

I think it is vitally important that those who conspire with others to cheat our health care plans should be punished to the full extent of the law. Otherwise, a conspiracy to defraud or embezzle will be uncovered before the crime is actually completed. Those situations should be addressed by this statute.

Second, while we provide for the forfeiture of property, real or personal of persons convicted of health care fraud, it is unclear whether the bill would also permit the forfeiture of the fraudulently obtained proceeds. While it is certainly important to obtain fraudulently obtained property, it is even more vital to divest criminals of their unlawfully obtained proceeds. We must be careful to craft legislation that will destroy the financial incentive for criminals to abuse our health care system.

In the same vein, the bill only permits forfeiture of property from persons actually convicted of a crime. Thus, if someone perpetuates a fraud against a health care plan or provider, and then flees outside the jurisdiction of the United States, it may be difficult to obtain their ill-gotten gains remaining in this country unless we permit the government to bring a civil forfeiture action.

Civil forfeiture must be available even if a conviction cannot be obtained. This is an important, complex issue. Indeed, I am currently working on legislation that would affect forfeiture law, and want to be able to craft responsible language.

I also have several technical concerns with the fraud and abuse provisions. For example, section 7141 punishes those who commit health care fraud with a maximum 10-year penalty. If serious bodily injury results, the criminal can be punished for any term of years.

Unfortunately, the statute does not appear to address a crime leading to someone's death. Serious bodily injury is not defined to include death, so the possibility of a death occurring as a result of the crime must be taken into account.

Finally, we need to ensure that this bill does not improperly extend Federal criminal jurisdiction and that it conforms to accepted investigative demand procedures. In light of the Lopez decision issued by the Supreme Court last term, we must be careful to draft legislation that contains the proper legislative nexus to the Constitution's commerce clause. We must put an end to the days of federalizing crime without giving any thought to the legitimate prosecutorial interests of the States.

We must also guarantee that appropriate, established, investigative demand procedures are followed. The administrative subpoena is a powerful tool that should not be used unless accepted procedures are followed.

In addition, I have continuing concerns about the provisions relating to the anti-kickback statute. I have been concerned about the discount exception to the statute as currently interpreted, and the discount safe harbor regulation which is, in effect, impeding the implementation of commercially reasonable and non-abusive marketing practices.

One such practice is the combining for discount purposes of various products and/or services supplied by a company to a provider. Another example involves the provision of discounts based upon the volume purchased during a fixed time period.

Hospitals and health plans purchase medical devices, pharmaceutical products and other health care products and services from one manufacturer, and thereby receive a percentage price discount on the total products purchased. The discount is allocated on a flat across-the-board basis for all products. Similarly, hospitals and health plans routinely purchase all products used for treatment of a particular disease from a supplier, at a fixed rate for all products.

In addition, manufacturers want to be certain that they can lawfully bundle products into a single procedure kit which contains all items needed to perform a specific procedure or treatment, and to offer the kit for purchase at a discount. Without the discount exceptions, such arrangements can be construed as a sale of one product tied to another and, therefore, a kickback under Medicare law, even when practiced lawfully in the treatment of patients.

These arrangements are appropriate and create no potential for abuse so

long as there is adequate disclosure of the financial parameters of these arrangements so that the Medicare and State health care programs are able to ascertain cost data for purposes of revising payment rates and are able to evaluate the impact of these arrangements.

While these arrangements may differ from pure time-of-sale price discounts on a single item or service, they are appropriate in the current health care environment.

Discount arrangements are, in fact, commonplace in the private sector and have resulted in substantial savings to hospitals, managed care companies and, most importantly, consumers.

Unfortunately, current Medicare law is vague in this area and implies potential illegality of certain innovative purchasing practices common in the private sector. These types of purchasing arrangements enable hospitals and managed care companies to purchase medical supplies and drugs at a discount when they are sold as a package or in volume.

The success of Medicare reform relies heavily on the ability of health plans to replicate successful private sector practices—including innovative arrangements between providers and drug and device manufacturers that result in savings to beneficiaries and ultimately to the Medicare trust fund.

Accordingly, it is my desire to clarify that these innovative purchasing arrangements are allowable under the existing Medicare antikickback rules. Although we have made some progress in this respect in the bill as reported by the Finance Committee, it is my desire to pursue clarifications in all these areas as the bill moves forward.

CHIROPRACTIC SERVICES

During consideration of the reconciliation bill an the Finance Committee, I offered an amendment to allow chiropractors to practice their profession under Medicare to the full extent of the scope of practice permitted under State law. The Committee agreed to accept this amendment subject to working out the financing provisions with the Congressional Budget Office. However, due to the press of business, it has not yet been possible to complete the task of fine tuning a mechanism that would achieve this goal without significantly increasing the cost to the Medicare program.

This is unfortunate because I believe that the time is ripe to discard the antiquated restrictions on chiropractors that permeate current law. Today, chiropractic is recognized by the medical profession, and, indeed, a recent government report concluded that chiropractic treatment is among the most effective for the treatment of certain types of ailments. Many of us in this Chamber did not need a government study to tell us what we already know.

I am committed to work with my colleagues on the Finance Committee to effectuate a change in the limitations on chiropractors. I believe—and I am confident that a majority of my colleagues both on the Finance Committee and in this chamber agree with me—that chiropractors should be allowed to be reimbursed under Medicare as long as the service they provided is an existing covered service, and that they are operating within the scope of their license as defined by State law.

ORTHOTIC AND PROSTHETIC SERVICES

I wanted to take this opportunity to mention another amendment I authored in Finance Committee, which was approved but later dropped because we could not find a suitable offset. That amendment would have allowed a 1 percent update in the reimbursement rate for orthotics and prosthetics providers, in particular for artificial limbs and braces.

Orthotics and prosthetics providers design, fit and fabricate custom orthopedic braces and artificial limbs for a wide variety of persons with physical disabilities.

I understand that the O&P fee schedule has been frozen for a number of years, resulting in only a 1 percent update factor per year since 1985. The bill freezes the update.

I am sympathetic to concerns which have been raised about the growth in reimbursement for this industry, and I would only note that this is a highly specialized segment of the health care industry; where utilization controls should not be an issue. In addition, while the Congressional Budget Office cites large growth in O&P since 1990, part of this growth is due to parenteral and enteral nutrition [PEN], urological supplies and other non-custom devices which would have not been covered by my amendment.

I am hopeful that the final bill can include the one percent update.

ABSTINENCE EDUCATION

Providing education to young adults about the value of abstinence is extremely important and I applaud the effort that this bill makes in this area. Many of us share the belief that abstinence is the best and healthiest method for our young people to avoid the risks associated with early sexual activity—dangers that have both physical and psychological manifestations.

I am concerned, however, that the language defining abstinence education in section 7445 of S. 1357 may be interpreted by some as being so restrictive that some excellent abstinence-based programs, including some programs operating in my State, would not be eligible for funding. This issue turns on the interpretation of the term exclusive purpose in section 7445(c)(5)(A) and whether this will be read as encompassing programs, such as operated by the Community of Caring in Utah, for which abstinence is a primary goal. This program exists in 50 schools in Utah and has been successful in achieving abstinence by teaching and reinforcing it within the values of caring, respect, responsibility, trust and family. I would hope that a family values-based program this effective would not be excluded from funding.

PRESCRIPTION DRUG REBATES

Many of us opposed the Medicaid drug rebate program when it was first enacted in 1990, although I recognize that it has provided a valuable source of revenue for financially strapped State Medicaid programs. The theory behind this program is that it would constrain the costs of pharmaceuticals by guaranteeing State Medicaid programs the best price.

Because of the growing move toward Medicaid managed care, with its inherent cost containment strategies, the importance of the rebate program is now overstated.

I have been concerned that rebates are anticompetitive and constrain the ability of hospitals, HMOs, and other private sector purchasers of prescription drugs to negotiate discounts from pharmaceutical manufacturers. In addition, overly high rebates can act as a disincentive to provider participation in Medicaid, as well as to the pharmaceutical research and development necessary to foster breakthrough drug products.

Under the current Medicaid program, States receive a manufacturer's best price for a drug, plus an additional rebate reflecting any differences between price increases and inflation—as measured by the Consumer Price Index. Under the original Finance bill, the Federal rebate program would have been retained for 3 years, after which the States could choose whether to implement programs on their own. An amendment adopted in committee removed that sunset.

I believe it is important to clarify what was intended by an amendment that I offered at the Senate Finance Committee on the topic of prescription drug rebates.

Currently, several States require rebates from prescription drug manufacturers over and above what is required under the Federal Medicaid program. The bill that we will ultimately send to the President will also be likely to retain the authority for States to continue to collect rebates. My personal belief, and I think that most of my colleagues on Finance would concur, is that this authority should be along the lines of the original Finance Committee bill which included a transition period of 3 years allotted to States to integrate drug rebate programs into their overall health care programs.

At the Finance Committee there was discussion as to whether the language adopted would preclude States that choose to opt out of the Medigrant Program from collecting supplemental or

additional rebates on top of the rebate amount authorized under the program. The Senate Finance Committee voted that States would be precluded from collecting unlimited rebates. At the committee level the point was made that the pharmaceutical industry is expected to spend about $15 billion on research and development in 1995 alone. States may choose to opt out of the drug rebate program but will be prohibited from collecting unlimited rebates from this research and development-intensive industry.

FDA EXPORT

I was pleased to learn this morning that the House adopted as part of its reconciliation bill legislation I authored with Representative FRED UPTON and Senator JUDD GREGG (H.R. 1300/S. 597) a bill which would dramatically expand export opportunities abroad for American manufacturers of pharmaceuticals and medical devices. That bill, the FDA Export Reform and Enhancement Act of 1995, will both create jobs in the United States, as well as provide incentives for us to enhance our technological capacity to develop new medical products.

I intend to work concertedly to ensure that this provision becomes law, and I commend my colleagues in the House, especially Representative UPTON, for their work in this area.

REIMBURSEMENT FOR EXPERIMENTAL MEDICAL DEVICES

On June 22, 1995, Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, D'AMATO and I introduced the Medical Devices Access Assurance Act of 1995. A companion measure, H.R. 1744, was introduced in the House by Chairman BILL THOMAS, the first in Congress to step forward in this area.

This legislation addresses two serious threats to our health care system: restricted access for our senior citizens to the most advanced experimental medical technologies and our country's loss of clinical research activities to overseas facilities. This bill helps harmonize our reimbursement policies for experimental medical devices with those governing payment for experimental drugs. This is good policy that is fair and advances the public health.

Because of "Byrd rule" considerations we are not able to pursue this matter in the bill today, even though the measure is included in the House-passed bill. It is my intention to pursue this legislation vigorously throughout the remainder of this congressional term, either as part of the reconciliation bill, or on the Medicare/Medicaid technicals bill which I understand the Chairman intends to consider later this year.

OXYGEN THERAPY

As part of the Medicare reform legislation, the Finance Committee reported a 40 percent reduction of the home oxygen benefit payment. In contrast, the House Ways and Means Committee reported a 20 percent reduction.

While I recognize that these provisions, to a certain extent, mirror Health Care Financing Administration efforts under an inherent reasonableness proceedings, nevertheless I am concerned about the impact of such a significant reduction on patients in Utah who require a higher level of service, particularly those patients in rural or remote areas of the State.

In addition, I have met with numerous small home oxygen providers who believe that with their slim profit margins they cannot possibly sustain a 40 percent payment reduction. And for many patients, the small provider may be the only nearby source of home oxygen therapy.

As the legislative process moves forward, I hope that we can reexamine this proposal.

HOSPICE CARE

I would also like to mention my deep interest in making sure that Federal support for hospice care remains as strong as possible.

Hospice care provides palliative care for terminally ill individuals with a life expectancy of 6 months or less if the terminal illness runs its normal course. Specifically, hospice care provides relief of pain and uncomfortable symptoms through a specially qualified interdisciplinary group of medical, psychosocial and spiritual professionals. Besides being certified as terminally ill, an individual must be entitled to part A of Medicare in order to be eligible to elect hospice care under Medicare. Under the Medicare hospice benefits, a terminally ill individual can receive comprehensive high-quality care at a lower cost.

While I recognize the need to hold back the growth in spending for all components of the Medicare program, I am concerned that the effective and efficient service of hospice care currently available to Medicare beneficiaries may be compromised by the proposed 2.5 percent budget reduction.

Hospice care is in effect comprehensive managed care for a specialized population, the terminally ill, since the current Medicare hospice benefit is reimbursed on a fixed, all-inclusive per diem basis.

As a recent Lewin-VHI study indicated, "efforts to control Medicare expenditures [that] discourage hospice providers from offering their services to Medicare beneficiaries, Medicare expenditures would likely increase." We must monitor this situation closely to assure that the benefits of hospice care are not undermined by this proposal.

In addition, I also think we need to clarify how the hospice benefit will interact with the managed care opportunities provided in both the House and Senate bills. The House language is explicit in stating that Medicare contractors will assume full financial liability for services other than hospice care. The Senate language is silent on this point and I am hopeful this can be addressed in conference.

HOME HEALTH CARE

I am also concerned about the impact of this legislation on the provision of home health care.

As my colleagues are aware, home health has long been a personal priority of mine. I have seen time after time how gratified Utah families are to be able to care for their loved ones in the home. This compassionate, caring alternative to institutionalization can make all the difference in the lives of those who are ill.

At the same time, I recognize that the rapid growth of these services in recent years attests to the fact that patients prefer home health care over traditional institutional care.

I have had the opportunity to talk to patients and their families who receive these services. Almost without exception the family setting enhances the patients morale and serves as a positive influence in speeding recovery or sustaining the critical nature of an illness.

Accordingly, as we reform Medicare we should be careful not to limit access artificially.

The legislation before us today proposes significant changes to the home health care industry. One provision will require that home health care services be paid on a prospective pay system. This is something I have favored for a long time; I think this provision will serve to address concerns regarding costs as well as to promote cost efficiency and effectiveness among providers without compromising the quality of care.

While I support the enactment of a PPS for home health, I do have concerns about some of the provisions contained in the Senate and House proposals which could have unintended consequences of erecting barriers to care for several categories of the elderly.

For instance, the greatest deficiency in the respective House and Senate plans, and one which will cause the greatest financial hardship to agencies as well as impact on patients, is the treatment of extended care/outlier cases; that is, patients who require more than 120 days of care.

According to some industry sources who have contacted me, as much as 30 percent of the national caseload falls into this category. The discrepancy between the per episode cap—based on the average regional cost of providing 120 days of care—and the per agency limit based on 165 days of care—must be addressed and eliminated.

If the episode cap is limited to 120 days, then additional payments, where warranted and approved by the fiscal intermediary, should begin on day 121. Or, alternatively, the per episode cap should be based on the regional average costs of providing 165 days of care.

The financial impact on providers of the discrepancy is obvious. The impact on patients is no less obvious. In the first place, the plan effectively—albeit certainly unintentionally—discriminates against patients with certain medical needs and conditions. While Medicare will pay providers the full cost of furnishing care to some patients whose needs fall within the arbitrarily day limits, it will pay for only part of the care for patients who are either more acutely ill or have chronic conditions.

Additionally, it is reasonable to assume that agencies with large caseloads of patients needing care beyond 120 days—but less than 165—cannot long operate under this system. The logical result will be limited access to care in some areas as agencies close.

With respect to the home health market basket updates, payment rates should be based on actual reasonable costs. The provision which would adjust payments by the home health market basket minus 2 percent is clearly unreasonable. Per visit payment directly affects per episode limits, so the limitation has a compounded effect.

Also punitive, particularly in light of the 45-day window of vulnerability/discrepancy, is the limitation of the savings share to 5 percent of an agency's aggregate Medicare patients. I think this is something we may need to examine, especially since the limitation serves as a disincentive to bring overall costs to a level that will yield savings greater than 5 percent.

The limitation could ultimately hurt the Medicare program, whose level of savings would increase if real incentives were in place for home health agencies to work to produce saving beyond the 5 percent limit.

Another issue regards the break in care between a particular illness or episode. Any required break in the delivery of home health services before a new episode can begin would, by definition, be arbitrary. A 60-day break seems to be unnecessarily long, given the nature of the Medicare home health care population. I think that 45 days might be more reasonable.

Another question I have about our proposal is that it leaves open the question of what responsibility, if any, a home health agency would carry for a patient who is discharged—for example at 120 days—and then who needs services for another condition 50 days later. This issue needs to be clarified. If patients cannot receive the care they need through home health, it is reasonable to assume they will obtain it in a more costly institutional setting.

Finally, I note that the House bill extends the waiver provision until the implementation of the PPS system on October 1, 1996. I hope this is something we can reexamine.

CHILDREN'S HEALTH

Nothing can be more important to our future than the health of our children. Too often that fact is left out of our debate on entitlement programs.

This debate has underscored that there is obvious disagreement over whether Medicaid should remain an entitlement, but I am certain there is no disagreement that children should be a primary focus no matter how we reform Medicaid.

In particular, children with special health care needs—those with serious chronic conditions or disabilities such as those with cerebral palsy, cystic fibrosis, cancer or heart conditions—are fortunately very small in number. In fact, they represent only 2 percent of all children. But, it will take special attention to make sure their needs are being met.

For example, managed care can offer these children and their families better access to care and better coordination of services, but—as the managed care industry's own National Committee on Quality Assurance has recognized—managed care has little experience with children with special needs.

The bill we have before us today contains an amendment which would have States outline in their plans how they will serve children, and in particular, how they will serve children with special health care needs. While I am certain the Governors will devote appropriate attention to children with special needs, I think that outlining how this will be accomplished in the State plans will give us all the peace of mind that these very vulnerable children will not fall through the cracks.

In addition, the bill contains a provision I coauthored with Sen. GRAHAM to clarify that States are required within their Medigrant plans to describe the methodology to be used to continue disproportionate share payments to hospitals. An explicit methodology is important for hospitals such as Primary Children's in Salt Lake City, which receives 7 percent of its Medicaid revenues from disproportionate share payments.

NURSING HOMES

One of the reasons I have introduced S. 1177, the Quality Care for Life Act, is that I firmly believe we need to adopt a national policy for long-term care. That policy need not be a Federal-only solution. Indeed, any plan to provide comprehensive long-term care services for Americans citizens must embrace a mix of private and public solutions, including incentives for long-term care insurance development.

There are 17,000 nursing homes in this country, who serve 1.7 million residents. The care of two-thirds of these residents, some 1.13 million, is paid by Medicaid, and the care of 100,000 is paid by Medicare.

The impact of this bill on the provision of long-term care services is immeasurable, since we are reforming the Medicaid system which provides a good deal of the long-term care services in this country, as well as making substantial changes to Medicare reimbursement for skilled nursing facilities [SNF's].

There is no doubt that savings from SNF reimbursement should be included in a reconciliation bill; I think that all involved —providers, patients, and policymakers—recognize that fact. However, I have had some concerns about the way the provisions were crafted in the proposal that we considered in Finance Committee.

I have very much appreciated the willingness of Chairman ROTH, and his most capable staff, to work with me to address my concerns.

Two weeks ago, I received a letter from 28 organizations, representing a broad spectrum of companies and health professionals providing care to 1 million Medicare beneficiaries. These organizations, which include nursing homes, subacute facilities, ancillary service providers and health care professionals serving nursing home patients, were opposed to the committee proposal which would have established a flat, per-stay reimbursement rate for all ancillary services based on a blend of a facility-specific and a national average rate.

The basis of concern was that the move toward a national average could cause wide shifts in reimbursement, which could jeopardize patient care especially for those with severe illnesses. In addition, the funding mechanism could jeopardize the trend toward using subacute care as a cost effective alternative to hospital care.

I also think that, despite the Health Care Financing Administration's lack of priority in developing a prospective payment system for SNF's, there is consensus that future payment must be made on a prospective basis. The only practical solution to the funding problem for nursing homes under the fee-for-service sector of the Medicare Program is to implement a prospective payment system that contains the necessary cost containment incentives. This will take some time to develop. Under the most rosy scenario, such a PPS system could not be implemented before October 1, 1997.

To me, the goals in developing a SNF reimbursement proposal should be twofold. We must make certain that any proposal we approve maintains appropriate incentives for high quality services. At the same time, it must also provide reimbursement in the most equitable way, especially during the transition period as we move to a PPS system.

The key to designing a new system is to get a handle, not only on the price the Medicare Program is paying for the nursing home service package, but also on the amount of services provided in the coverage package. Control over the latter can only be accomplished by paying SNF's prospectively on a per

episode, per case, or per spell of illness basis—as opposed to the per diem or per day approach that has been traditionally employed in the nursing home industry.

Faced with prospective per episode payments, skilled nursing facilities will be able to economize on the amount of services provided during each Medicare covered stay by adjusting the intensity of services provided during each day of the patient's stay in the facility and by making sure that the Medicare covered stay is no longer than necessary. Of course, other mechanisms outside of the payment system must be relied upon to control the number of Medicare covered admissions, but I expect we will be addressing these concerns through controls on coverage decisions, shifts to managed care, and modifications in eligibility rules.

These prospective episodic payments should cover all of the reasonable costs that skilled nursing facilities incur when providing Medicare covered services, including both operating costs (both routine and non-routine) and property costs. The prospective episodic payments under this system are intended to cover the entire cost of services provided during the period of Medicare part A coverage. This means that the payments are to cover both part A and part B services that are provided to the patients during their Medicare part A covered stays.

Additionally, the prospective episodic payments need not be the same for all patients in all facilities. For example, the prospective payments should be case-mix sensitive so that patients with varying service needs are associated with varying levels of payments. Skilled nursing facilities operating in different labor markets also should have their prospective payment schedules adjusted to account for these market differences. Finally, special consideration should be given to the prospective payments for patients in skilled nursing facilities with very low volumes of Medicare activity so as to preserve the access to SNF services that these providers afford. This can be done either by preserving the current low volume prospective per diem Medicare SNF payment system or by adjusting the prospective episodic payment levels for these facilities to recognize their higher costs of operation. No payment adjustments should be authorized other than those just described.

With this kind of approach to prospective Medicare SNF payment, we can expect to finally get a handle on one of the most rapidly expanding sectors of the Medicare Program.

I am extremely appreciative of the efforts that Senator ROTH and his staff have made to work with me to address concerns I have had about the SNF provisions in the bill.

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There is one other SNF issue I wish to address. The Finance Committee amendment we considered today differed somewhat from an earlier draft I reviewed with respect to section 7037. In the previous draft, the language made it clear that the Secretary of HHS should establish salary equivalency limits based on "recent and accurate data relevant to the specific types of therapists and providers, subject to the salary guidelines." This language also specified that the existing guidelines for physical therapy and respiratory therapy would be updated to conform to that guidance. As my colleagues may be aware, the current guidelines for physical therapy and respiratory therapy are based on 1981 data and they are outdated.

This language was not included in the draft of this morning. I am hopeful that we can work to clarify this section during conference to make certain that the Secretary shall use accurate, timely, and relevant data in developing occupational therapy and speech language pathology guidelines and to assure that the Secretary will rebase the existing guidelines for physical therapy and respiratory therapy based upon timely, accurate, and relevant data.

CLINICAL LABORATORIES

Another provision about which I have some concern is the provision on reimbursement of clinical labs contained within this bill. I have no objection to reducing the level of spending under this category, and I am very appreciative of the fact that the bill does not contain the unwise proposal from 1993 to impose a copayment on lab services.

In committee, I had suggested a provision similar to the Ways and Means bill which would only freeze updates for lab payments and include much-needed administrative simplifications which could provide efficiency and cost-effectiveness in the delivery of lab services, a key regulatory reform goal of this Congress.

We were not able to work out the scoring on this proposal, but I am hopeful the issue of lab reimbursement, and especially administrative simplification, can be reexamined in conference.

FEDERALLY QUALIFIED HEALTH CENTERS

During Finance consideration of this bill, the committee adopted without objection a provision I authored with Senators CHAFEE and GRASSLEY which would allocate 1 percent of Federal Medicaid spending for the preservation of what I believe is really the Nation's primary care infrastructure—community health centers and rural health clinics. Since the bill rewrites title IX of the Social Security Act, Medicaid, it eliminates the cost-based reimbursement they would have received under Medicaid as Federally-Qualified Health Centers (FQHCs).

Let me make perfectly clear that I am extremely sensitive to the concerns that our Nation's Governors have raised about using a Medicaid set-aside as a funding source for this amendment; I want to work to address these concerns as the process moves forward.

Under our amendment, one half of the amount allocated would be used for payments to community health centers, and the other half for rural health clinics. The Secretary of HHS would determine the methodology for determining payments to these centers and would make payments directly to the centers. Payments made to centers by the Secretary would be in addition to any other revenues the centers receive from Medicaid, either directly from States or from managed care plans.

Mr. President, over 1000 community health centers and 2500 rural health clinics play a unique role in the health care system. In inner-city areas, community health centers are often the only providers of care to Medicaid patients and the uninsured. In rural areas, community health centers and rural health clinics are often the only providers for the residents of the area, whether they are on Medicaid or Medicare, have private insurance, or are uninsured.

Community health centers and rural health clinics serve over 16 percent of Medicaid patients nationwide. My colleagues might be surprised to know that 36 percent of community health center patients are on Medicaid; 44 percent are uninsured; 8 percent are on Medicare; and 12 percent have private insurance.

For rural health clinics, 27.7 percent of the patients are on Medicaid; 29.4 percent are on Medicare; 14.4 percent are uninsured; and 28.5 percent have private insurance.

The current Medicaid Program recognizes the unique role of these centers, and provides them with cost-based reimbursement, in order to assure that the payments are sufficient to meet the health care needs of Medicaid patients they serve.

Unlike providers with large numbers of privately insured patients, these centers do not have reserves or available capital, and do not have the ability to cost-shift losses from insufficient payments under public programs.

Under many current Medicaid managed care programs, these centers have not received sufficient payments from managed care plans to meet their costs of caring from Medicaid patients.

Some of my colleagues may ask why these centers need special consideration. A major reason is that many will be forced to close their doors or reduce services if their reimbursement is not maintained.

Centers are committed to serve all in their communities. Without a sufficient flow of funds to meet the needs of their Medicaid patients, centers will be forced to substantially reduce their patient loads, and many will go out of

business. Other providers will not enter these underserved communities because the economic base will not support them, and the community will be left with no remaining health care infrastructure.

Another reason is that Medicaid patients (particularly those seen by centers) often are more difficult to treat than the privately insured patient enrolled in a managed care plan because Medicaid health center patients have more serious health conditions and poorer overall indicators of health status.

In addition to traditional medical services, centers provide other services (such as outreach, transportation, health education, and translation) which enable Medicaid patients to better utilize care and comply with medical direction. These services are not generally included in a capitated payment which a health center receives from a health plan.

There are many benefits which would result from this legislation.

Since these centers must be located by law in underserved areas, access to cost-effective preventive and primary care services will be assured.

These centers deliver health care which is one of the best bargains anywhere. For example, the total annual cost of community health center comprehensive primary and preventive care is, on average, less than $300 per patient.

I would also like to reassure my colleagues that this provision could result in substantial savings for State Medicaid Programs. Several recent studies have found that Medicaid patients who regularly use health centers have lower total annual health care costs than Medicaid patients who use other primary care providers, such as HMOs, hospital outpatient units, or private physicians. These studies show that health center patients were 22 percent to 33 percent less expensive overall and had between 27 percent to 44 percent lower inpatient costs and days.

Other providers could also benefit from this provision. These centers serve disproportionate numbers of high-risk patients, and adequately compensating the health centers for their care can make risk levels more reasonable for other providers in communities with more than one provider.

As we prepare to vote on this landmark legislation, I want to express my deep personal appreciation to the Finance Committee health staff, who have labored long and hard under the most difficult circumstances to bring us a solid piece of legislation. In particular I want to cite the hard work of Julie James, Roy Ramthun, Alec Vachon, Susan Nestor, and Donna Norton. I would be remiss if I did not also mention the monumental efforts of Lindy Paull, Rick Grafmeyer, and last, but not least, Gioia Bonmartini.

In conclusion, Mr. President, unfortunately, there is no easy nor painless way to effect reductions in the growth of Medicare and Medicaid. But it has to be done.

My message is simple. I wish we lived in a world in which we had unlimited resources so that all—aged, disabled, poor—could have the services they desire. But such a world does not exist.

We must be fair to our Nation's disabled, to our seniors, and to the low-income. But we must also be fair to our children, and their children. In short, we just have to do the best we can and this bill is a good start.

BALANCED BUDGET RECONCILIATION ACT

Mr. PRESSLER. Mr. President, I am pleased to be voting today for the Balanced Budget Reconciliation Act. For the first time in a generation, the United States Senate will be voting to end fiscal irresponsibility. Today, we have the opportunity to leave the next generation not mountains of debt, but the prospect of a stronger economy and a better standard of living.

Many of us have fought this battle to end runaway deficit spending for decades. I have done what I can. I have kept my votes within a balanced budget. I have cosponsored constitutional amendments to balance the budget, and measures to grant the President line item veto authority. When I assumed the chairmanship of the Committee on Commerce, Science and Transportation, I voluntarily reduced my staff budget by 15 percent. Those of us who believe in common sense budgeting fought tenaciously to reverse years of liberal excess and largess that has left the United States a debtor nation. For years, the only things I have had to show for my efforts to balance the budget are awards from grassroots, fiscal watchdog organizations. Today, with passage of this legislation, I have my eyes on the ultimate prize: a balanced federal budget. It is about time.

Of course, the people who deserve most of the credit are the American people. As they have done in so many instances throughout our Nation's history, the American people made the difference. Last November they said enough is enough. They sent home many liberal caretakers of a run-down, bloated Federal Government, and sent to Washington a new corps of members that share my common sense approach to government. American families, working hard to provide for their children's future, knew that the Federal debt stood as an ominous threat to their efforts and their way of life.

The people of South Dakota long ago made clear they do not tolerate wasteful deficit spending. South Dakotans believe that the Federal Government should live within its means—just like every family, every farm, and every business large and small. They are absolutely right.

No single act this Congress can take could have a more positive impact on more Americans than a vote to balance the Federal budget. The facts are clear. A balanced Federal budget and a lower debt free up investment dollars that have gone toward financing the debt or making interest payments on the debt. In practical terms, a balanced budget would mean three key things: First, it would mean lower interest rates by up to two percent, making loans for new businesses, a new home or car, or a college education more affordable; second, it would mean at least 6.1 million new jobs; and third, it would mean a higher standard of living. In fact, a balanced budget would result in per-family incomes rising on average by $1,000 a year.

With all the clear benefits, it is no wonder that the American people strongly favor a balanced budget. Americans recognize that fiscal irresponsibility has been a stifling barrier to progress—a barrier that gets larger, more onerous and more oppressive unless we act. Today, we are acting. A balanced budget is not just a restoration of common sense government. It is nothing less than economic liberation for every American family and business.

The balanced budget bill we pass today maintains our commitment to vital programs, such as student loans and national security. It also preserves and improves outdated, costly social programs that threaten to spiral our country into bankruptcy. Chief among them is Medicare.

Medicare reform is critical. I support Medicare. It provides essential hospital and health care services to 37 million Americans, including 113,000 South Dakotans. My mother depends on Medicare for basic health care.

As all of us know, earlier this year, we received troubling news from the trustees in charge of Medicare. They said that Medicare would be bankrupt in 7 years. Without action by the year 2002, there would be no money to pay senior citizens' hospital bills. Seniors would be stuck for the entire bill because Medicare would not be around to help. That must not happen. If we enact the Medicare reforms contained in S. 1357, that will not happen.

This bill would save Medicare by making a number of key reforms. First, the bill would slow the rate at which Medicare is spending our tax dollars. At present, Medicare is growing at an annual rate of 10.4 percent. That is too fast. It is like forcing a person to run a marathon at a sprinter's pace. If allowed to grow at this pace, Medicare will burn out and run out of money in 7 years. Like the marathon runner, we need to slow the pace of Medicare growth so it can run longer. That is just what this bill would do. It would

slow Medicare growth to a more manageable 6.4 percent—still twice the rate of inflation, but at a pace that would enable Medicare to stay solvent for years to come.

In terms of dollars and cents, total Medicare spending would increase from $178 billion this year to $274 billion by the year 2002—that is a total of $1.6 trillion invested in Medicare and an increase of 54 percent over 7 years. This growth rate is faster than any other major Government program. Spending per South Dakota Medicare beneficiary would increase as well, from $4,816 this year to $6,734 in the year 2002—an increase of $1,918.

This bill would improve Medicare as well. The Republican Medicare reform plan rests on three basic principles: First, every senior would be able to choose the same fee-for-service Medicare plan they have now, with all of Medicare's benefits. Second, senior citizens would continue to be able to choose their own doctor. Third, seniors would have a new option—the option to choose from a variety of health plans, as do younger Americans and Members of Congress. Seniors could stay on Medicare, or opt for a health plan offered by a Health Maintenance Organization (HMO), a Provider Sponsored Network (PSN), or even a health plan sponsored by a pool of physicians.

For the first time, seniors would be given a greater choice over health care options. They would have leverage as health care consumers in a newly competitive health care market. This option of choice would offer senior citizens more benefits, such as eyeglasses, prescription drugs and hearing aids, at a lower cost.

In short, Republicans intend to improve Medicare by preserving its best elements, and empowering senior citizens, not the Government, to choose the health plan that suits them best.

This legislation also contains much-needed reforms in the Medicaid program. Like Medicare, the Medicaid program is growing at an excessive rate that threatens funding levels for other vital social programs. The core element of Medicaid reform is to slow the rate of growth in the program, from 10.5 percent to just under 5 percent. We further reform Medicaid by giving the States greater authority to administer the program, while maintaining our traditional commitments to cover pregnant women and children, as well as the disabled.

The balanced budget legislation also maintains our commitment to young Americans who need financial assistance for college. Much misinformation has been circulated by the liberals, but the reality is student financial aid enjoys wide bipartisan support. This was made evident just yesterday, when the Senate overwhelming approved an amendment I cosponsored to provide an additional $5 billion for student financial aid. This amendment would preserve the in-school interest subsidy for both undergraduate and graduate students. It also would prevent any increases in the interest rate on PLUS loans for parents and it eliminated a misguided .85 percent fee on student loan volume on colleges and universities.

I am very pleased the Senate adopted this amendment. During the Senate Labor Committee's consideration of its provisions in the balanced budget legislation, I contacted Chairman KASSEBAUM to express my opposition to any new fees on higher education institutions as a way to preserve our commitment to Federal student loan programs.

Frankly, we could do even more for our financial aid programs by repealing the wasteful direct lending program. This bill takes a step in that direction by capping the direct lending program at 20 percent. This program is a very inefficient and costly attempt to remove the private sector from the student loan process. The Congressional Budget Office [CBO] estimated that the elimination of direct lending would save taxpayers $1.5 billion over 7 years. In addition, students and families are better served by their local banks than faceless bureaucrats in Washington.

I have heard from many young South Dakotans on the importance of financial aid for higher education. I personally identify with their concerns. I relied on student loans to get through college. Let me assure them and their parents that the balanced budget bill before us today is a winner in two respects —first, it maintains the Federal commitment to federal student loan programs; second, by balancing the budget, young South Dakotans will inherit an American economy and a standard of living second to none.

Finally, Mr. President, the balanced budget bill brings much-needed tax relief to the American people—tax relief that is balanced, reasonable and fair. We need tax relief for a number of reasons. First, the current tax code is unfair to working Americans. Since 1950, the tax burden has risen dramatically. Today, average Americans see up to 40 percent of their hard-earned income go toward taxes. In a nation where the average family has both parents on the job, Americans are working harder than ever before. Yet, they have less and less to show for it. That is not right. A heavy tax burden stalls economic growth, prevents savings and investment, and hinders a family's ability to provide for the well-being of their children.

Second, we need tax relief to reverse the adverse affects of the 1993 tax increase—the largest in American history. This tax increase is the main reason why the current economic recovery has been much slower than previous recoveries. As I stated, a balanced budget provides our economy a much-needed boost. Tax relief would empower working Americans with the means to further boost our economy. Indeed, this tax relief bill is good for all Americans—families, small businesses, farmers and seniors.

We have carefully crafted a bill that takes a big step toward fairness and empowers Americans to contribute to the health of our country, our communities and our families. And we do so without leaving a Federal deficit.

The largest component of this tax package would provide a $500 per child tax credit for low- and middle-income families. This is money that can go where it can do the most good—in family budgets to serve a number of purposes, ranging from child care to saving for a college education.

This tax credit is great news for tens of thousands of South Dakota families. Specifically, more than 84,000 South Dakota families would benefit from the tax credit. Of that number, more than 31,000 South Dakota taxpayers would have their tax liability eliminated completely. This is a true middle class tax cut. In fact 84 percent of the tax relief in this bill would go to Americans making less than $100,000 a year.

The bill would provide even more tax relief for the middle-class by creating a student loan deduction for up to 20 percent of interest—up to $500—paid on a student loan.

The bill would create an adoption credit to encourage and reward those who reach out to open their hearts and homes to a child in need of a home. And we have strengthened our commitment to families by relieving the unfair burden of the marriage tax penalty.

The bill would encourage middle class families to save and invest by creating a new Individual Retirement Account. Current use of tax-deductible IRAs would be expanded through an increase in the income limits, which would encourage Americans to save more and secure their futures. Homemakers would be allowed participation in IRAs. Finally, penalty-free withdrawals would be allowed for first time home purchases, medical expenses, periods of unemployment and higher education expenses. I have long been a strong advocate for making IRAs more flexible for families. I am proud to be a co-sponsor of the original legislation, which was incorporated in S. 1357.

Our economy would be further stimulated by the capital gains tax cut contained in this bill. More often than not, capital gains taxes hurt middle income families. The vast majority of capital gains is realized from those individuals who have held a family home or farm for decades or even generations, and are severely punished by the tax code when they finally sell their primary assets to pay for retirement. This bill would cut the capital gains tax rate by

50 percent for individuals. This would allow individuals who now are holding assets for fear of the capital gains tax to put those assets to a more productive use.

Our small businesses—the true engines of our economy—would benefit from the capital gains reforms, but also from other specific items in our bill that were created for their benefit. Many small businesses do not offer pension plans to their employees due to the administrative costs and unnecessary paperwork that is required. For those businesses with less than 100 employees and limited resources, the bill would create a simple 401(k) plan where employees can contribute up to $6000 of wages, and employers must match up to 3 percent of the employee's pay.

One portion of this bill that I am particularly proud of is estate tax relief for family farms and businesses. Too often, people work their entire lives to build a successful farm, ranch or other small business, with the hopes of passing it along to their children. Unfortunately, the estate tax laws take away the fruits of their labor by imposing a tax of up to 55 percent upon the family estates. This frequently forces the family to sell all or part of the business simply to pay estate taxes. Earlier this year, after months of preparation, Chairman ROTH, Senator DOLE, Senator PRYOR and I introduced legislation that would exempt the first $1.5 million of qualified family-owned business assets from estate taxes, and then to provide a 50 percent rate cut beyond that.

The continuation of family-owned businesses is critical to the strength of our communities. This is true in South Dakota, where family farms and businesses have been the heart and soul of our economic development since statehood. Family-owned businesses give our kids something to work toward—and it helps our towns and neighborhoods by providing an active business commitment to their stability. The estate tax reforms in this legislation would end the imposition of estate taxes for virtually every family-owned family farm and small business in South Dakota.

I also worked to include in the bill a modest, but much-needed change to the Generation-Skipping Transfer Tax laws that would free up more options for contributing estate assets to charity.

I am pleased that this bill would retain the ethanol tax credit and extend the recently expired ethanol blenders tax credit, which is very important to South Dakota corn farmers and ethanol blenders. Both provisions are important for rural America and farm income. These kinds of credits are essential in order to provide new market opportunities for farmers. Ethanol is a fuel source that is cleaner for the environment, reduces dependency on foreign oil and strengthens our agricultural sector.

This tax package is a solid, reasonable approach to tax relief. It stimulates the economy and helps those who are trying to make a better life for themselves. Having the ability to plan ahead for retirement and other, unexpected, life changes benefits the society as a whole.

In order to assist those who seek to provide for their long-term health needs, the bill would clarify the treatment of long-term care insurance so that it would be treated like medical insurance and receive favorable tax treatment. The more we can encourage people to plan ahead for themselves, the stronger all of our futures will be. We have created Medical Savings Accounts [MSAs] so that everyone can plan for medical crises. The earnings on these accounts would be tax-free as are the withdrawals for certain purposes.

Mr. President, the driving principle behind this entire legislation is fairness—fairness to hard-working Americans and particularly to our children, who stand to inherit this country. Without this legislation, Americans would be subjected to egregious forms of unfairness on many fronts. Unless we balance the budget, young Americans will inherit a nation submerged in debt. A child born today already owes $187,000 just on interest on the Federal debt. That is more than $3,500 in taxes every year of her working life—a lifetime tax rate of 84 percent. This debt stands to threaten the very foundations of our economy and our country.

Without this legislation, Medicare will go bankrupt in the year 2002. Americans not yet of retirement age, who are contributing a significant portion of their pay to Medicare, deserve to know that Medicare will be there for them when they retire.

Without this legislation, hard-working Americans would be saddled with a tax system that punishes their ability to save, invest and provide for their families.

This legislation restores fairness to fiscal policy, seniors' health care and tax policy. Most Americans play by a common sense set of values. Americans work hard. They obey the law. They look out for their family and community. They try to provide for their future and their children's future.

For more than a generation, the Federal Government has stood in stark contrast to these values. The Federal Government taxes far too much and spends even more. It does not live within its means. It stifles individual initiative and ingenuity. This liberal tax and spend philosophy stands to threaten the livelihoods and the values that embody them of future generations.

Today, we take a significant step to right the wrongs of an irresponsible legacy of tax and spend. It is a historic occasion. Today, we set the stage for a new legacy of fiscal responsibility and fairness to American families. The American people made history last November by giving the Republicans control of Congress for the first time in more than a generation. They called for fair, common sense government. Tonight, for the first time in more than a generation, we in the Republican party will give the American people what they asked for: A fair, common sense government that lives within its means.

NAVAL PETROLEUM RESERVES

Mr. DOMENICI. Mr. President, there was a point of order sustained against the provision in the bill providing for the sale of the naval petroleum reserves [NPR], it is a technical violation of the Byrd rule.

The budget resolution included a reconciliation instruction based on the gross proceeds from the sale of the naval petroleum reserves. For reconciliation purposes, the Senate Budget Committee has scored the gross proceeds to the Armed Services Committee consistent with the budget resolution.

Under reconciliation scoring, there is no violation under the Byrd rule.

For the purposes of scoring under sections 302 and 311 of the Budget Act and determining whether the budget is balanced we do take into account the forgone receipts from the sale of the naval petroleum reserve. So, under that scoring there would be a net outlay increase in the out-years.

Even so, no one should be under the impression that the sale of the NPR will lose the Government money.

Under CBO's scoring, the sale of the naval petroleum reserves [NPR] leads to three budgetary impacts: $1.6 billion increase in gross proceeds to the Government from the sale of the NPR; $2.5 billion in forgone receipts over the next 7 years from the sale of the reserves; and at least $1.0 billion in discretionary spending savings associated with the fact that the Government no longer will need to spend money to operate and maintain the reserves.

None of these figures take into account the interest savings the Government will earn or the tax revenues that will be generated by the private operation of this oil venture. Even without these additional savings, the sale still generates savings to the Federal Government over a 7-year time period.

The point of order against this provision is clearly a technical violation. I will work to ensure the sale of the NPR's is incorporated into the conference report and there is no Byrd rule violation.

The irony here is that a Democratic point of order will defeat the President's proposal to sell the naval petroleum reserves. If we don't sell it, the President's plan is even more out of balance.

Mr. President, the NPR has outlived the original purpose for which it was

established around the turn of the century—a fuel reserve for the Navy.

Since 1976, the Department of Energy has been operating NPR as a commercial oil venture. The quality of oil produced from the NPR is not suitable for use by the modern Navy and instead is sold to the private market.

There is no national security rationale for the Federal Government to continue managing NPR oil production, either in terms of military or domestic energy requirements. The private sector can run NPR more efficiently than the Federal Government.

INTERNATIONAL SIMPLIFICATION

Mr. DOLE. Mr. President, I would like to state my support for including several international tax simplification measures in the conference report. There is an urgent need to address certain issues now before businesses make operational decisions that may negatively impact the growth of those industries for years to come, and, as a result, harm the U.S. economy. I know that Senators HATCH, D'AMATO, CHAFEE, GRASSLEY, and MACK also have strong concerns in this area, and I hope we can all work together to see that these issues are addressed in the conference report on this bill.

The provisions to which I refer include various international simplification measures, some of which are in the House bill, including a measure that would permit foreign tax credits to be applied to taxes paid by fourth-, fifth and sixth-tier controlled foreign corporations (CFCs), as well as the repeal of Section 956A of the Internal Revenue Code, the clarification of the application of the foreign sales corporation (FSC) rules with respect to software exports, and a reevaluation of the deferral rules for foreign shipping income of CFC's.

One of the provisions on which I believe we should act is section 956A, which was one of the tax increases included in President Clinton's 1993 tax bill. Contrary to the stated reason for enacting this provision, in many cases it has created an incentive for U.S. multinationals to invest overseas rather than in the United States. This is because by having its foreign subsidiary invest in active foreign assets, a U.S. multinational reduces its tax liability. Thus, section 956A essentially provides a 35 percent investment tax credit for foreign investment by U.S. companies. Similar problems arise from a provision that today could cause a CFC to be treated as a PFIC because current law generally does not recognize the value of a company's intangible assets. These and other international tax simplification issues should be addressed in the conference agreement to this bill.

Mr. HATCH. Mr. President, I share the concerns expressed by the majority leader regarding the need to repeal Section 956A and the application of the PFIC rules to CFC's in connection with intangible assets. I would also like to express my concern about the problem of the overlap between subpart F and the PFIC provisions in general. I look forward to working together with the leader to correct all of these problems in the conference report on this bill. These provisions have the effect of hindering competitiveness of U.S. multinationals and distorting investment decisions that properly should be governed by economic considerations alone. Thus, they put at risk U.S.-based jobs. The 956A and PFIC rules have an especially harsh effect on research-intensive companies, which tend to accumulate capital before making major investments. As a result, I am particularly concerned that research activities may be moved overseas in order to avoid the impact of these rules. I believe this Nation may gradually lose its competitive edge in the technology field if through ill-conceived tax rules we provide incentives for this technology to be developed and owned outside the United States. As you know, technology industries are very important to my State of Utah, and I am concerned about Tax Code provisions that have the effect of causing those industries to move their high-paying jobs out of the United States. For that reason, I would like to ask the leader's support for addressing in conference a problem that has arisen because of a narrow and ill-conceived IRS interpretation of the foreign sales corporation (FSC) provisions as they apply to exports of software, which I fear could also result in the movement of software development jobs overseas.

The FSC rules were enacted to address competitive disadvantages faced by U.S. exporters vis-a-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to remove an incentive to move manufacturing and production jobs out of the United States. Unfortunately, a narrow IRS interpretation of these rules could preclude exports of software copyrights from qualifying for export treatment under the FSC rules when those exports are accompanied by a right to reproduce the software overseas. I am very concerned because software companies are already examining opportunities to move high-paying software development jobs overseas where highly skilled labor is available at much lower wages. FSC benefits help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. I believe it is very important to clarify these rules to reflect the Congress' intent with respect to software, not only to protect U.S. software development jobs, but also to preserve ownership of this technology in the United States.

The narrow IRS interpretation of the application of the FSC rules to software was included in 1987 temporary and proposed regulations, which were never finalized. The Treasury Department has broad authority under current law to implement congressional intent by providing that a copyright on software qualifies as export property even if the software is accompanied by a right to reproduce. I believe that the Treasury Department should take action on its regulations to so provide this result. However, Treasury has indicated that it prefers congressional action to resolve this issue. In any event, 8 years is too long to wait for Treasury to take action on its temporary regulations, especially given the fact that the software industry regularly receives solicitations to move their software development to other countries, such as Ireland and India. Therefore, I hope that the majority leader will support legislative clarification of this issue in the context of international tax simplification measures that will be considered by the conference committee. This clarification of the FSC rules is an important simplification measure because it will implement the intent of Congress and help taxpayers and the IRS avoid years of litigation over the current regulations and help to avert complicated restructuring activities.

Mr. DOLE. Mr. President, I, too, am concerned about the Treasury Department's interpretation of the FSC rules with respect to computer software and do not believe that the FSC statute precludes the application of the FSC provisions to computer software in the case described by the Senator from Utah. Given the Treasury's unwillingness to resolve this issue, I agree that we should address this issue in conference.

Mr. D'AMATO. Mr. President, I share the views of the majority leader and the Senator from Utah with respect to the urgent need to provide long-overdue improvements to our international tax system, especially when existing law hampers our industries as they expand their operations in the global marketplace.

The need for simplification and reform is illustrated by section 956 of the Internal Revenue Code—a section introduced in the 1960's and designed to prevent taxpayers from avoiding taxation on the repatriation of foreign earnings through disguised dividends in the form, for example, of loans to affiliates. In general, ordinary course of business financing transactions appropriately were exempted from this provision. Since section 956 first was introduced, however, the scope and complexity of international business have expanded rapidly, but the ordinary course of business exceptions to section 956 have not been updated.

For example, U.S.-based securities firms typically had negligible foreign

earnings at the time section 956 was introduced, and therefore the ordinary course of business exceptions to that provision did not reflect standard commercial practices in that industry. In recent years, however, many U.S.-based securities firms have transformed themselves into global institutions by developing substantial international operations (just as many foreign-based institutions now compete in the United States). Section 956 has never been updated to reflect this surge in the international activities of the U.S. securities industry, thus forcing the industry into complex uneconomic transactions.

This is just one example of how U.S. taxation has not kept up with the political, economic and technical changes that have created new opportunities and broken down old barriers as national markets are replaced with global markets. Our tax laws should reflect and support these changes in a similar fashion, or they will force undue complexity on U.S.-based companies.

I join with the Senators from Kansas and Utah in supporting the principal of tax reform in the international area and the inclusion of international simplification and reform in the conference report.

Mr. DOLE. Mr. President, I agree that we should try to address these measures in conference.

BAUCUS MOTION TO STRIKE

Mr. BIDEN. Mr. President, there is a stretch of coastal plain in northeastern Alaska which has been called North America's Serengeti. Nestled between the towering 10-thousand foot peaks of the Brooks Range and the frigid Arctic Ocean on the North Slope of Alaska, lies the Arctic Coastal Plain, the 1½-million-acre crown jewel of the 19-million-acre Arctic National Wildlife Refuge. According to the Fish and Wildlife Service, the coastal plain area is the biological heart and the center of wildlife activity in the refuge. This pristine and complex Arctic ecosystem is habitat for a complete spectrum of wildlife, including polar and grizzly bears, wolves and snow geese. A 160,000-member porcupine caribou herd has used the coastal plain as a calving area for centuries. In all, more than 200 animal species call the refuge home.

Tragically, the bill before us today threatens to permanently mar Alaska's Coastal Plain by permitting destructive oil and natural gas exploration. Under a broad pretext of jobs, economic development, and international security, some want to enable gigantic energy interests to irreparably harm the sanctity of this area. What will be taken can never be replaced, and we ought not allow exploration to occur.

The State of Alaska has been blessed with abundant natural resources, and on the whole we, as a nation, are stronger for much of the enormous development which has occurred there.

Depending on who you ask naturally, the prospects for a substantial oil find on the coastal plain vary. Nineteen percent, Forty percent, the estimates, by definition, are inexact. Proponents of development believe that under the tundra lies the next Prudhoe Bay discovery, the next North Sea field. Fueled by projections of a skyrocketing demand for oil by the developing world, energy interests are waiting with bated breath.

Yet, of the more than 1,100 miles of northern Alaska's coastline, the coastal plain is the only 125 miles closed to development. Isn't this a small, justifiable sacrifice. Isn't there a point where we draw the line and protect a unique area because there is value beyond the price per barrel.

Let us assume for the moment that perhaps there is some merit in development, and let us further use Prudhoe Bay as a case study of likely consequences. Though for the most part drilling in the bay is reasonably managed, oil spills still average 500 annually—that is nearly 10 spills per week. This activity seems to also be having an impact on the surrounding wildlife. An article in the October 21 edition of the Anchorage Daily News noted that a new State caribou survey has found a sharp decline in the central Arctic caribou herd indigenous to the area. The cause is unknown, however, recent research by the University of Alaska has found that caribou living near the oil fields have far fewer calves than those away from the facilities.

If this is in fact the case, the adverse effects of oil activity would be magnified in the coastal plain. What will exploration bring? Hundreds of miles of roads and pipelines leading to dozens of oil fields, blocking wildlife migration. Toxic wastes leaking into the soil. Rivers and streambeds robbed of millions of tons of their gravel to construct roads and runways.

According to Interior Department estimates, oil exploration would likely result in a decrease or change in distribution of 20 to 40 percent in the caribou population, 50 percent in the numbers of snow geese, and 25 to 50 percent in the muskox populations.

And after the oil has dried up, after the companies have gone, what will be left? The footprint of industrial development: abandoned drilling equipment scarring the landscape; toxic contamination; lost wildlife; a horizon permanently altered.

I have heard proponents argue that opening the coastal plan is a critical step toward decreasing our growing dependence on foreign oil. Yet, many of these same proponents are now moving a bill through the Congress to start exporting the oil presently extracted from Alaska's North Slope.

Mysteriously, this concern about our dependence on foreign oil also seems to evaporate when it comes to investment in research and development of alternative fuels, such as solar and wind energy.

Protection of our wilderness should not be a Democratic issue, or a Republican issue. In fact, the entire National Wildlife Refugee System, of which the Arctic Refuge is a part, was begun in 1903 by one of the greatest conservationists in our history, President Teddy Roosevelt, a Republican. The coastal plain was part of the original wildlife refuge established by President Eisenhower in 1960. Regrettably, red ink bleeding from Alaska's budget and the power of a few special interests have polarized this debate.

Every American has a stake in our National Wilderness Areas, in the preservation of the environment in which we all live, Every acre offering the possibility of oil ought not be drilled, every mountain offering the possibility of gold ought not be mined, every mile of wilderness ought not be stripped bare just because its value can be quantified, just because revenue can be raised.

Due to the fragile and complex interconnection of ecosystems, our future is inextricably linked to nature's vitality. If the scale is tipped too far by overdevelopment and we lose our balance, no amount of money will enable us to restore what we have lost.

We must remember that we are but visitors in this land, existing by the good grace of Mother Nature—a lasting, sustainable society for all future generations depends upon it.

Mr. COHEN. Mr. President, I have enormous respect for my Republican colleagues for producing this historic budget. For the first time in a generation the Senate is presented with a plan that actually balances the budget.

Earlier this year, opponents of the balanced budget amendment charged that the amendment was a gimmick designed to allow Members to say they support a balanced budget without having to explain exactly how to achieve this.

I am proud that these critics have been proven wrong. Despite the loss of the balanced budget amendment, this Republican Congress has persevered in producing a specific plan to balance the budget in 2002—the same year called for in the balanced budget amendment.

The spending cuts called for in this plan are significant, and many of them are well overdue. My concern is with the tax cuts. I do not think we should be cutting taxes at the same time we are trying to balance the budget.

Trying to do both at once is like driving with one foot on the gas and the other on the brake.

I think the tough cuts proposed in this plan would be more easily justified without the tax cuts.

Any way you look at it, because of these tax cuts, the Federal Government will have to borrow $245 billion

more over the next 7 years than it otherwise would. This is particularly troubling in light of the fact that, if no changes are made in the Federal budget, children born today will face a lifetime tax burden of 82 percent. Such a tax burden is clearly unsustainable and intolerable.

Paying for tax cuts with borrowed money is really more of a tax deferral than a tax cut. At some point, future taxpayers will be forced to pay back the $245 billion and their tax burden will be higher than it otherwise might be.

If the effect of borrowing money for tax cuts today is to increase the tax burden on future generations, the entire purpose of balancing the budget is undermined. We will still be asking our children to foot the bill. Balancing the budget is itself a tax cut in that it would relieve families of the hidden taxes associated with servicing the national debt. Interest on this debt costs the average household over $800 a year. Balancing the budget more quickly and forgoing a deficit-financed tax cut would ease the burden of these hidden taxes. Balancing the budget more quickly would also lower interest costs for mortgages and student loans—saving families thousands of dollars.

Congress must focus on increasing the national savings rate. The surest way to achieve this goal is by reducing the deficit and by fundamentally reforming the tax code. The tax cuts proposed in the pending bill would frustrate both of these goals. The Tax Code would be complicated further and the deficit would be $245 billion larger.

Let me be clear. If not for the budget deficit, I too would support a broad-based tax cut. I am no fan of higher taxes. I opposed President Clinton's deficit plan because it relied too heavily on tax increases and not enough on spending cuts. It is one thing to oppose further tax increases. It is quite another, however, to support large tax cuts in the face of looming deficits.

While the size of the tax cuts prevent me from voting for this budget, I appreciate the willingness of the majority leader, Senator DOMENICI and Senator ROTH to work with me and other Senators to make some important changes to the bill affecting the education and Medicaid programs. In addition, important Federal nursing home standards were maintained. While these improvements were substantial, they could not offset my overarching concerns with cutting taxes by $245 billion at this time.

I am confident that the Senate will have an opportunity to consider another balanced budget plan this year. The budget in its current form will almost certainly be vetoed by the President. Subsequent to this veto, I look forward to working with my colleagues to craft a new plan that maintains the goal of balancing the budget without cutting taxes by $245 billion.

Mr. SPECTER. Mr. President, I am voting in favor of final passage of the budget reconciliation bill because I believe the prospective benefits of balancing the budget outweigh the concerns expressed in my floor statement of October 24, 1995. As indicated by that statement and my votes on individual amendments, I believe the bill would have been fairer with more funding for Medicare, education, and Medicaid without the tax cuts. OK, the tax cuts should have gone to deficit reduction. But, on balance, the bill should be passed.

At the insistence of our group of centrist Senators, this bill has been materially improved by floor amendments which did add some significant supplemental funding for Medicaid, Medicare, and education.

It is my expectation that further improvements are likely in the House-Senate conference with additional funding for Medicare and recipients of the earned income tax credit, because the House of Representatives has higher figures in those accounts.

After the House-Senate conference and the expected Presidential veto, it is likely that the ultimate legislation will better address the fairness issue and provide better assurances that tax cuts will not undermine a balanced budget.

Passage of this bill by the Senate today will move the process forward and promote the primary objective of balancing the federal budget by the targeted year of 2002.

Mr. BIDEN. Mr. President, a nation's budget reveals its fundamental values, its priorities, the problems that most concern its people. A budget can tell us a lot about how a nation's resources will be shared—which people, what activities will bear the tax burdens, and which people, which activities will be encouraged and rewarded.

We are debating here today perhaps the most important budget plan in my public career. This is the first time we have committed ourselves to a 7-year budget plan, and the first time we have committed ourselves to a path which ends in a balanced budget. If—and this is a big if—we stick to it, this budget will control our actions through the end of this century and beyond.

What statement does this document make about our country? What does this reconciliation bill say about our concerns, what does it say about our values?

Mr. President, as we debate this bill we face a number of fundamental problems in our country. High on the list of worries of the middle-class men and women I talk to in my State of Delaware is the need to restore faith in the American dream—a belief that their own hard work will earn them a decent living today, that their mothers and fathers will enjoy a secure and dignified retirement, and that there will be a better world for their sons and daughters.

And just as high on that list of Americans' concerns is a need to restore Americans' sense of fairness—a sense that we have a system that gives the average guy a fair shake, that does not turn its back on those who are less fortunate, a system in which the most fortunate meet their obligation to contribute to our shared needs.

This is a value increasingly at risk today.

How does this budget respond to those concerns, Mr. President? How does it reflect those middle-class values?

I am sorry to say that this budget will give middle-class Americans more reason to worry about the future. It weakens the foundation of future growth by making it harder for our children to get the education they need to become part of a high wage, high productivity, world class work force.

The lower, slower growth that is the inevitable result of this reconciliation bill will contribute to a further hollowing out of our middle class—an expanding gap between the few whose families can afford a more expensive ticket to a better future and those who cannot.

A weakened middle class increases social instability, and leads to the very real concerns about the future that we now see in the polls, and in our streets.

It threatens Americans' ability to control their own fate—no matter how hard they work, a weaker, slower growing economy will mean smaller wages and salaries, a bleaker future.

As unwise, as reckless as this bill is in its threat to our current and future standard of living, Mr. President, it is unconscionable in its abandonment of our commitment to our parents' generation.

It raises the cost of getting old in America, Mr. President. This reconciliation bill is a dark cloud over what should be the golden years of the generation that made us into a world power, that passed on to us the richest, most powerful country in the history of the world. How do we repay their hard work and sacrifice on our behalf?

This bill raises the cost of Medicare and Medicaid, and removes nursing home standards that demand basic human decency. It cuts more than $270 billion from Medicare over the next 7 years. Already today, seniors pay an average of 20 percent of their income for health care. This plan, will increase the premiums of a senior couple an additional $2,800 over the next 7 years.

This reconciliation bill continues to dump the burden on a middle class that is already getting clobbered. For more than a decade and a half, the median income in this country has been stuck in neutral—along with housing, the costs of education and health care are squeezing everything else out of middle-class budgets.

This bill increases health care costs of the retired parents of hard-working middle-class families. What are they going to do when grandma and grandpa come home and tell them that they will have to pay more out of their own fixed incomes to visit their own doctor? Will they turn their parents away? We all know the answer to that question, Mr. President—thank God, those middle-class families are going to remember their parents' sacrifices for them and for this country, and they are going to reach into their pockets and cover the new costs imposed by this bill.

At the same time, they are going to have to pick up the tab for more expensive college loans. It is the old squeeze play, Mr. President, and guess who is in the middle?

The saddest thing about this reconciliation bill may well be the missed opportunity it represents. I voted for the balanced budget amendment. I support not one, but two different budget resolutions that could have brought us to a balanced budget by the year 2002, the same target at which this reconciliation bill is aimed.

So I wish I could vote for a plan that would reach that goal. There are many possible plans, many possible paths to that goal. Some of those paths to a balanced budget would leave us a stronger, more competitive, and fairer country.

This one will not.

The question is not whether we should balance the budget. The question is not whether there must be sacrifice and change in the way we do business here. And for me, there is no question that we should make room for tax cuts, though more carefully drawn and targeted than those here before us today.

The question is how should we share the burden of the necessary sacrifice among the American people, and how should we allocate the necessary spending cuts to assure stronger, faster economic growth in the future.

This reconciliation bill has the wrong answers to those questions, Mr. President. It dumps the burdens of deficit reduction on those least able to bear it—deepening, not healing, the growing rifts in our society. And its short-sighted priorities—raising the cost of education, reducing health care and nutrition to the poorest children—weaken our ability to respond with a healthy, smarter workforce to the challenge of international economic competition.

I tried, along with a lot of my colleagues, to fix this bill. I offered an amendment that would give a $10,000 tax deduction to help middle-class families pay for the rising costs of a college education. I tried to reduce the fraud in the Medicare system—to save money that could have prevented some of the worst cuts this bill will impose.

I supported many other attempts to restore some fairness, some common sense, some more balanced priorities to this bill. Those attempts were defeated.

We are left with this fatally flawed bill.

And a final point, Mr. President. As someone who voted for the balanced budget constitutional amendment, I might be moved to overlook some flaws in a plan that offered real promise of bringing the Federal deficit down to zero. Unfortunately, this plan uses a bunch of budget gimmicks too long to list here to maintain an appearance of budget balance that may well never become a reality.

Most disturbing to me is the fact that only by counting the surplus in the Social Security System will this plan bring the deficit to zero in the year 2002. Without counting Social Security funds as part of the Federal Government's everyday income, something that is not permitted under our current budget laws, the Republicans' own Budget Office has told them that this budget will be out of balance by $105 billion in 2002.

But there are other problems, Mr. President—such as the heavy "back loading" of the spending cuts. This budget saves the real pain for the 6th and 7th years of this plan—a point when virtually no one here today would have to face the need to cut over $200 billion each of the last 2 years. Let us hope there will be more enthusiasm for those choices then, than there appears to be now.

This bill's gimmicks include asset sales—to make the books look better in the short run, but that will leave us poorer in the future. Again, this is a practice that should not be allowed under budget law, but it is in here nonetheless.

So this reconciliation bill does not express the values of the Americans I know, the values of the people of Delaware. It does not embody the principles of mutual obligation, of family continuity that the Americans I know share. It is an affront to any notion of family values.

It does not address middle-class Americans' valid concerns about the future of our economy, and it does nothing to help us build the well-paid, high-productivity work force that will allow us to take control of our destiny.

Because I know we can do better, Mr. President, and because the American people deserve better, I will vote against this bill.

Mr. CHAFEE. Mr. President, this reconciliation bill is the culmination of the congressional budget process. It provides for a balanced budget within 7 years, a truly remarkable feat.

The next step will undoubtedly be direct negotiations between congressional principals and the President to reach a final budget accord. However, that cannot occur until this legislation has been passed in final form, and sent to the President. And the quicker, the better, in my view.

While I do not agree with every aspect of this reconciliation bill, the objective of achieving a balanced budget far outweighs any misgivings I have about various of its provisions. We do not always get everything we want in the legislative process. Achieving the greater good must also be a consideration; and, here, the greater good is to obtain a balanced budget.

For 33 straight years this Government has spent more than it has taken in. The cumulative consequence of our annual budgetary sins is an incredible $5 trillion national debt—literally, a mortgage on the economic future of our children and grandchildren. This is immoral, and must stop.

Every week, the Treasury Department must issue debt securities to keep the Government afloat. This past Monday, for example, Treasury borrowed $27 billion to cover maturing securities, and to raise needed cash. The Department must hold monthly, quarterly, and annual auctions just to maintain solvency. If we make no changes to the course we are currently on, we will run $200 billion deficits each year well into the next century. Fully 15 percent of our annual Federal budget—$235 billion—must now go to paying the interest on this massive debt, without a penny of that going to reduce the principal. Within 10 years annual interest costs will jump to $400 billion.

This must stop.

Those of us in Congress, who have struggled over the years to reverse this ruinous course, are rightfully frustrated. In 1985, we passed the Emergency Deficit Control Act, also known as Gramm-Rudman-Hollings. That law was supposed to deliver a balanced budget by 1991. It did not happen. In 1990, we passed the Budget Enforcement Act, establishing the discretionary spending caps and the pay-as-you-go rules for entitlement spending and tax cuts. The results are barely measurable. Despite our best efforts, deficit control continues to elude us.

Regrettably, we cannot balance the budget this year or next. However, with the bill before us, we will balance the budget by the year 2002. And, from there, we can hopefully go on to commence retiring the staggering national debt that will remain.

Is this bill perfect? No, it is not. I am not aware of any Senator who is satisfied with every aspect of this 1,900-page bill. In my view, at a time when we are struggling to reduce the deficit and asking people to sacrifice, the tax cuts are ill-timed. Earlier this year, during the debate on the Budget Resolution, a number of moderate Republicans—myself included—sought to discourage the tax cuts. That effort was complicated by the fact that the President's own budget called for tax cuts totaling

more than $105 billion. During the Finance Committee deliberations last week, I was the lone Republican voting to eliminate or scale-back the tax cuts. Unfortunately, my view did not prevail.

I have also been clear in my objections to block granting the Medicaid Program. I took steps in the Finance Committee to ensure that, at a minimum, pregnant women and children with incomes below the poverty level, as well as the disabled, retain some minimum guarantee of services.

In that regard, I am pleased my amendment to clarify the definition of "disability" passed the Senate yesterday by a vote of 60–39. Similarly, I am gratified the Senate this morning rejected, by a vote of 21–78, an amendment to strike my guarantee provisions for low-income pregnant women and children, as well as the disabled. These votes place the Senate squarely on record in support of requiring states to guarantee services to these vulnerable populations.

As a result of negotiations with the majority leader, moderate Republicans have been able to obtain a number of other improvements to the Medicaid package over the past several days. These include retaining Federal standards for nursing homes, a set-aside for low-income Medicare beneficiaries, and requiring that the same solvency standards a State applies to private plans must also be applied to Medicaid plans. We were also able to obtain a provision to permit the integration of services for elderly and disabled individuals who are both Medicare and Medicaid-eligible. Finally, we also won inclusion of an additional $10 billion in funding to the States under the revised Medicaid Program, and $2 billion more in Medicare payments to teaching hospitals.

I am also pleased that we were able to reach an agreement with the majority leader to eliminate the proposed reductions in Federal student loan programs that most directly effect students, parents, and schools. This occurred yesterday with the passage of the Kassebaum amendment, which restores the interest exemption "grace period" for newly guaranteed students, retains the current interest rates on "plus" loans to parents, and drops the new fee based on student loan volume that schools would be required to pay. We must not burden families further by making student loans more costly.

Despite these improvements, I still have some serious objections to S. 1357. Nonetheless, I will vote for this reconciliation measure. Moreover, I will vote against any amendments which I believe will delay or prevent this legislation from reaching the President's desk at the earliest possible time.

The new fiscal year started over 3 weeks ago, numerous appropriations bills remain outstanding, and the short term continuing resolution we passed last month will soon expire. My objective is to expedite getting to the endgame—to the bargaining table with President Clinton—where the real negotiations and work can commence on the terms of a final agreement to balance the budget.

While one may or may not agree with this package, it definitely does not represent business as usual. In fact, it is a bold, politically risky initiative, without precedent in my memory. This is the first serious attempt to constrain the explosive growth of Medicare and Medicaid; to cap and reform farm subsidies; and to delay the cost of living adjustments for Federal retirees. These deficits are a cancer, and this bill is the chemotherapy. It's painful medicine, but it is necessary.

During hearings earlier this year in the Finance Committee, a number of distinguished economists testified on fiscal policy and the state of our economy. Nearly every one of these witnesses, including Federal Reserve Board Chairman Alan Greenspan, said that balancing the budget is the single most important step we in Congress can take to help the economy. The benefits that flow from balancing the budget include increased employment and wages, greater investment and productivity, and lower long term interest rates.

Once we get on a glide path to a balanced budget, which can only come from hard negotiations with the President, our economy will begin to see some of these improvements. As interest rates drop, borrowing to buy a house, or to finance a college education will become more affordable. With less government borrowing, there will be more capital available for small businesses to expand, and to hire more people. Real wages, now stagnant, will begin to grow again, and our standard of living will gradually begin to improve.

In summary, Mr. President, we must take bold steps now. We cannot continue to pile ever greater debt burdens on our children and grandchildren. Thank goodness we finally have a legislative proposal that will reverse this ruinous course.

Mr. FEINGOLD. Mr. President, the 2000 page reconciliation measure that the Senate passed is deeply flawed.

It is a massive work, and difficult to comment on in any serious, detailed way because making an assessment of the reconciliation bill really amounts to assessing the individual components of the measure, as well as the proposal as a whole.

On both counts, this bill is troubling.

Mr. President, last May, during consideration of the budget resolution, I shared my own perspective about the direction we should pursue to balance the budget.

I argued that part of our effort should include changes to Medicare, and I identified areas where some savings could be realized.

I also noted that some in the majority party were undermining our ability to make these reforms by failing to play straight with the American people, implying that cuts to Medicare are needed solely to keep the Medicare Hospital Insurance Trust Fund solvent.

That portrayal was, and is, entirely misleading, as, of course, it was meant to be.

For though some changes are needed to keep the Hospital Insurance fund solvent, that trust fund is not the entire story.

Savings in Medicare must also be found as part of the broader effort to reduce the deficit and balance the Federal budget.

Mr. President, I made this point last May, and I make it again today because I fear that the political spin doctors who have chosen to depict Medicare cuts as being apart and separate from the rest of the budget are doing a great disservice to the cause of deficit reduction.

In an effort to minimize the political fallout that is inevitable if Congress cuts Medicare, they may undermine any chance for a budget package that will achieve the consensus it must have if we are to make the politically tough decisions needed to balance the Federal budget.

Mr. President, we need to be honest with the American people.

The Hospital Insurance Trust Fund does need to be shored up, but that is not the only reason we need to find savings in Medicare.

Nor is the impending insolvency of the trust fund something new.

The Hospital Insurance Trust Fund has been within a few years of insolvency every year since 1970.

Mr. President, Congress has been dealing with that problem off and on for 25 years now. I understand that it will take about $90 billion in savings over the next 7 years to extend the trust fund's solvency to 10 years, about one-third of the total reduction proposed by the majority party.

But the trust fund solvency is not the whole story, despite what some want the American people to believe.

Medicare clearly has an impact on the budget, and part of the reason cuts are being proposed stems from our Federal budget deficit. And rightly so.

Mr. President, Medicare is not Social Security. It should be on the table with other areas of Federal spending.

Mr. President, I have sponsored legislation that includes Medicare changes. Medicare changes were part of the 82-point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

More importantly, I have voted for legislation that contained significant, specific changes to Medicare twice during the 103d Congress.

The reconciliation legislation we passed as part of the President's deficit reduction package included nearly $60 billion in Medicare cuts.

I also voted for, and was proud to cosponsor, the bipartisan Kerrey-Brown deficit reduction package which also included significant, specific Medicare cuts.

And, Mr. President, I am willing to vote for Medicare cuts again. But not the $270 billion in cuts that are proposed in this measure.

Mr. President, last May I laid out a number of specific areas in which I thought savings could be realized. I was pleased to see a number of those ideas included in the Medicare provisions of the reconciliation bills that have been made by the Senate Finance Committee.

These included changes in the reimbursement of capital-related costs of inpatient services; repairing the flawed reimbursement formula that results in overpayments for some outpatient services; and, establishing a new prospective payment approach for home health care services.

I was pleased as well to see that the Finance Committee proposal includes some improvement in the reimbursement formula for Medicare HMOs.

The current formula rewards inefficient health care markets and punishes efficient health care markets and those areas, like many rural areas, that have inadequate service capacity.

For Vernon County, WI, about an hour west of my home, the Medicare formula would reimburse an HMO about $211 per month per enrollee. That is just a little bit more than half of the national average of $400 per month.

Mr. President, it should not surprise my colleagues to know that there are no Medicare HMOs in Vernon County. By contrast, in Miami, Medicare HMOs receive about $615 per month for every enrollee, nearly three times as much as in Vernon County.

At triple the reimbursement of Vernon County, it is little wonder that HMOs in places like Miami are able to offer the wonderful additional benefits to which proponents of Medicare HMOs point when arguing for expanded use of managed care in Medicare, benefits like prescription drugs, eye glasses, and dental services.

Though it remains to be seen whether or not the Finance Committee's changes to the formula will be sufficient, the blended formula approach appears to move in the right direction.

I also want to commend the authors of the Senate proposal, and of the Ways and Means plan, for asking higher income Medicare beneficiaries to pay a larger share of the cost of their Medicare part B services.

I proposed that very reform in 1992, as part of my 82-point plan to reduce the deficit and balance the budget, and am glad to see it included in the two proposals.

Mr. President, I endorse this change. It should be made in order to help reduce the deficit.

But those who have sought to avoid criticism of this and other Medicare changes have used the pretense of the impending insolvency of the Medicare trust fund, and in doing so they have done no favors to the cause of deficit reduction.

Far from it.

By misrepresenting the facts to the American people, they have undermined and jeopardized the already politically difficult, but nevertheless necessary task, of reforming Medicare.

Mr. President, the problems created by deliberately misleading people about the real need for Medicare reforms are compounded by a number of flawed, even harsh provisions.

These include the across-the-board increase in part B premiums and deductibles.

Unlike the means-tested premium increase on upper income beneficiaries, which I support, the across the board increases in premiums and deductibles hits lower income seniors and disabled.

Mr. President, the median income of elderly households is less than half that of non-elderly households. And incomes for the oldest old are by far the lowest of any age group.

Households headed by someone aged 75 or older had annual median incomes of less than $13,622 in 1992—$4,000 lower than the next lowest income group, those of households headed by people between age 15 and 24.

And over one-fourth of the elderly households have incomes of less than $10,000 per year.

Mr. President, while the elderly are disproportionately poor, they also spend far more on health care as a group than anyone else, and this should not surprise us.

What may be surprising to some, however, is just how much our seniors do pay already even with Medicare. In 1995, the average older beneficiary will spend about $2,750 out-of-pocket for premiums, deductibles, copayments, and for services not covered by Medicare.

I might add, Mr. President, that these costs do not include the potentially crushing costs of long-term care which can total nearly $40,000 in some areas for nursing home care.

The across-the-board increases in premiums and deductibles will only add to these already high out-of-pocket costs.

Mr. President, let me add that under the current protections in our Medicaid program for lower income Medicare beneficiaries, some of the impact on the poorest of our elderly would be softened, but the reconciliation measure eliminates the guarantee of help for those beneficiaries.

Mr. President, rural seniors are among the most at risk under this legislation.

Because rural areas depend on Medicare to support an already inadequate health care service capacity, the massive Medicare cuts hit rural seniors and providers especially hard.

Making matters worse is the so-called Budget Expenditure Limit Tool, or "BELT" provision included in the bill which provides for automatic cuts in the traditional Medicare fee-for-service program if budget targets are not met.

Despite the improvements made to the Medicare HMO reimbursement formula, rural beneficiaries will continue to rely much more heavily on the traditional Medicare fee-for-service program than their urban counterparts, placing them at special risk because of the BELT provision.

Mr. President, as bad as the Medicare cuts are, the Medicaid cuts may be even worse.

Again, reforms to the current Medicaid program are clearly needed, not only to improve services for those lower income families needing health care, but also to reduce the pressure on our budget deficit.

But the $182 billion in cuts proposed in this bill are unacceptable, as is the loss of the current Federal protections that ensure safe nursing home care, guarantee help for the poorest Medicare beneficiaries, and provide the critical safety net of health care services to poor women, children, and the disabled of all ages.

Though spousal impoverishment protections were retained in the provisions reported by the Finance Committee, I am extremely concerned about the prospects for spousal impoverishment when this measure goes to conference.

Comments made by the Speaker indicate that spousal impoverishment protections are very much at risk.

Mr. President, I am equally concerned about reports of a little known change in the law that permits States to bill the adult children of those elderly needing long-term care services.

This smacks of a return to the days of bills of attainder and workhouses for the families of those unable pay their debts.

Much has been said on other protections that have been eliminated and I will not repeat the arguments that have been made.

But, Mr. President, it is apparent that those seeking to tame our Medicaid budget do not understand the underlying forces which contribute to the bulk of Medicaid growth, namely the rapidly increasing need for long-term care services.

Though the elderly and disabled make up about one quarter of the Medicaid population, they account for 59 percent of the Medicaid budget, with the bulk of expenditures for them going to long-term care services.

Pressure on the long-term care budget will only increase.

Our Nation faces a rapidly growing population needing long-term care services, a population which is disproportionately poor.

The answer, Mr. President, is not to turn Medicaid into a block grant program, imposing a unilateral cut, and shoving responsibility for those left without services onto the States.

The answer is fundamental long-term care reform.

Along with Senator PAUL SIMON, I introduced a comprehensive long-term care reform measure, S. 85, that would be an important first step in helping States deal with this growing problem.

It is based on the bipartisan reforms we made in Wisconsin during the 1980's, where we established consumer-oriented and consumer-directed home and community-based services that allow those needing long-term care to remain in their own homes and communities.

Those reforms helped bring Wisconsin's Medicaid budget under control, and saved taxpayers hundreds of millions of dollars. Between 1980 and 1993, while Medicaid nursing home use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

This is the kind of national long-term care reform that is needed to tame the Medicaid budget, offered a version of that proposal as an amendment to this bill, but that amendment was defeated.

Mr. President, other provisions of the reconciliation bill are significantly flawed.

According to the Treasury Department, the bill's cuts to the Earned Income Tax Credit amount to nothing more or less than a tax increase on 17 million low-income, working Americans.

In my own State of Wisconsin, some 206,000 families will experience a tax increase of $330 on average in 2002, according to Treasury figures.

The assault on the Student Loan Program is also troubling.

The new limitation on direct lending programs adds real injury to this insult, making it even more difficult for families to send their children to college.

Mr. President, as disturbing as the provisions contained in the measure are those which are not such as the lack of effective change to the Federal Milk Marketing Order system.

Mr. President, the provisions in this bill with respect to dairy policy could not be any worse for the Upper Midwest. The provisions reported by the Agriculture Committee dramatically reduce the support price for milk, cutting the dairy price support program more than any other commodity on a proportionate basis. The dairy program which accounted for less than two percent of commodity program spending in 1994, took 9% of the cuts made by the Agriculture Committee in this bill. Those cuts could have been acceptable, Mr. President, if the inequities and market distortions of the Federal Milk Marketing Order system that have discriminated against the Upper Midwest had been addressed by the Committee.

Unfortunately, the Agriculture Committee abdicated their responsibility on Market Order reform and left the system intact, leaving in place a bill that pulled the rug out from under manufacturing prices for the Upper Midwest, and leaving in place the excessive subsidies for fluid milk in other regions of the country.

Unfortunately, Mr. President, this bill did not stop there. Instead, during floor action, the Senate granted its approval to the Northeast Interstate Dairy Compact which will allow six northeastern states to set artificially high prices for milk paid to their producers. Mr. President, to my knowledge, this is the first time that Congress has granted approval to a price-fixing Interstate Compact. The Compact erects walls around the Compact states, preventing lower cost milk produced outside the Compact region from entering those six states. It is protectionism in its worst form. This compact also provides a subsidy to Compact-state processors who are forced to pay this higher price for milk, in order to allow them to ship their products outside the compact and remain competitive. Those compact products, produced and exported with the subsidy, will then compete with products produced by processors and producers in other states that have not been granted this special privilege.

The Compact, Mr. President, is inherently market distorting, regionally discriminatory, and overly regulatory. I think this body will regret providing its approval to this arrangement.

Unfortunately, the Senate included another provision during floor debate that further worsens the inequities of the current system. The Senate approved a Class IV pricing scheme for inclusion in Federal Milk Marketing Orders which taxes all producers nationwide to support the overproduction of a couple of West Coast states. The Upper Midwest dairy producers and processors overwhelmingly oppose this provision because it adds just another layer of regulation to the already discriminatory milk marketing order system. It will reduce prices for all producers nationwide in order to pay for the surpluses produced on the west coast. Wisconsin producers, while being denied an opportunity to share in the benefits of the highest class of milk, Class I milk, will now be required to suffer the loss of the lowest priced class of milk, even though they are not responsible for its production.

Mr. President, this bill represents the worst possible outcome for the Upper Midwest dairy industry, and in particular, for Wisconsin dairy farmers. In short, Mr. President, the Senate approved some very bad policy which appears inconsistent with the principles of many members of this chamber and which is completely out of step with the dairy marketing conditions of the 1990's.

Another area in which this bill remains far too silent relates to the lack of discipline imposed on our U.S. tax code. I am particularly disappointed at the weak effort made to address the rapidly growing spending done through the tax code.

Along with tax cuts and defense spending, these tax loopholes are sacred cows in this budget.

At $400 billion and growing, these tax expenditures are among the most important areas of Federal spending, and they are hardly touched in the reconciliation bill before the body.

Mr. President, many of the tax expenditures are certainly worthy, but others are hard to justify.

Just like the inappropriate subsidies made through direct appropriations, many tax expenditures not only put pressure on the budget deficit, they also distort the market place, lowering overall economic efficiency of the Nation.

But, despite the clear need for careful scrutiny in this area, made all the more timely by our common goal of reducing the deficit, tax expenditures are largely given a free pass.

Mr. President, it is obvious to all that the massive cuts to Medicare and Medicaid—nearly a half trillion dollars over the next 7 years—are far more than are necessary to address our budget deficit, and in fact make it more difficult to enact a budget plan that will balance the Federal books.

Nor can the health care system that provides care for the most vulnerable in our Nation be safely and prudently sustained with this kind of revenue loss.

The question occurs—why are these harsh cuts being proposed to the health care programs for our most vulnerable?

Mr. President, the inescapable conclusion is to fund a fiscally irresponsible quarter of a trillion dollar tax cut.

Mr. President, this tax cut not only jeopardizes the fundamental missions of Medicare and Medicaid to provide health care for retirees, poor women, children, and the disabled of all ages, it also jeopardizes efforts to balance the Federal books.

Mr. President, if there were no quarter of a trillion dollar tax cut, we could develop a bipartisan budget plan, including reductions in Medicare and Medicaid, that would balance the Federal books by 2002 or even sooner.

Mr. President, if there were no quarter of a trillion dollar tax cut, Medicare and Medicaid beneficiaries, and others, would be far more receptive to calls for sacrifice, especially if they are

told, honestly and straightforwardly, that those sacrifices are intended not just to bolster the Trust Fund, but to help get our Federal budget out of the red.

More importantly, Mr. President, if there were no quarter of a trillion dollar tax cut, we could fashion a budget plan that would be politically sustainable for the time it takes to reach balance and eliminate the Federal budget deficit.

I have no doubt that the deep flaws in the reconciliation measure before us jeopardize the very goal the supporters of that measure profess—a balanced Federal budget.

Mr. President, I find similar fault, though to a much lesser degree, with the President's original budget as well as his later offering, both of which retain a fiscally reckless tax cut, though one which, admittedly, is much more modest than is being proposed by the Republican leadership.

We cannot afford either the Democratic tax cut or the Republican tax cut, and we could go a long way toward reaching a politically sustainable budget agreement that would balance the Federal books by 2002, and even sooner, if both parties scrapped their tax cut proposals and instead focused on eliminating the deficit.

Mr. President, contrary to the image portrayed by the spin doctors, it is the Senate that has produced the most significant reform in this Congress.

Bipartisan efforts in the area of gift ban, lobbying reform, and the beginnings of campaign finance reform all have their roots here, in the United States Senate.

I earnestly hope this body will eventually put together the kind of sustainable, bipartisan deficit reduction plan that will balance the Federal budget before 2002, and do so without harming the most vulnerable in society. The key is to eliminate the absolutely irresponsible quarter of a trillion dollar tax cut.

If we can agree to do that, restrain the growth of tax loopholes, and put the Defense budget back on the budget table, we will have moved a long way toward establishing a responsible glidepath to a balanced Federal budget, and elimination of the Federal budget deficit.

Mr. GLENN. Mr. President, I rise in opposition to the bill. Along with many Ohioans, I oppose the large Medicare cuts contained in the reconciliation bill and am concerned about their impact on all Americans.

MEDICARE AND TAX CUTS

This bill calls for a $270 billion cut to the Medicare program yet gives away $245 billion in tax breaks—which disproportionately benefit wealthy Americans. I find it alarming that in order to achieve a $245 billion reduction in taxes, we will slash services for seniors who choose to keep their current Medicare coverage.

This enormous Medicare cut will not balance the budget because it goes for a $245 billion tax break. To keep its Contract With America, Republicans will break our thirty-year contract that has successfully helped older Americans. The lesson here is the old story so often reflected in Republican economics: those who have, get; those who do not, get stuck.

The tragedy here is that this massive Medicare cut is unnecessary. We all know the 1995 Medicare Board of Trustees report projected that the Medicare Part A Hospital Insurance (HI) trust fund will run out of reserves in the year 2002. However, the Trustees also reported that only $89 billion in savings are necessary to restore the trust fund's solvency through 2006.

The budget plan before us, which was drawn up behind closed doors, achieves much of its $270 billion in Medicare savings by cutting spending in the areas of inpatient and outpatient services, home health, hospice and extended care, physician and ambulatory facility services, and diagnostic test and durable medical equipment. For the people in my home State of Ohio, this means there will be $8.9 billion fewer dollars for health care. For beneficiaries, this cut will mean increased premiums, deductibles and copayments for Medicare Part B services—which include many of the services I just mentioned.

And how are we paying for it? We are going to cut taxes. We squeeze $270 billion from the elderly so that we can turn around and give $245 billion of it away in tax cuts.

Now we have heard a lot of talk about how this side of the aisle is just engaging in demagoguery and class warfare. They tell us their bill is not slanted toward the wealthy. They say that this bill distributes tax cuts equally, regardless of your income.

But, the American people know better. They know that just because someone says it is so, does not make it so.

The real horror story of this reconciliation bill lies in the numbers. And the numbers the other side has produced just do not add up. The numbers do not add up because not only does this proposal cut medical care for America's seniors, but it raises taxes on the working poor by gutting the Earned Income Tax Credit [EITC]. So you need to factor in the Republican EITC tax increase when making any distributional comparisons.

When you do that, you will find that people with less than $30,000 will actually be worse off, come tax time, under this plan. But very wealthy taxpayers would be big winners. The wealthiest 13 percent of taxpayers—those with incomes above $75,000—would receive 53 percent of the Senate tax cut. So the wealthiest 13 percent get 53 percent of the benefits. Those making more than $200,000 would gain an average of $5,088 per taxpayer in the year 2000. By contrast, those with incomes between $20,000 and $75,000 would receive an average tax cut of only $320.

MEDICAID

The budget reconciliation's treatment of Medicaid is truly alarming. Republicans would repeal the current Medicaid program and turn it over to the States as a fixed dollar amount block grant—eliminating the safety net for more than eight million pregnant women, children, disabled and elderly Americans, and weakening Federal nursing home regulations that protect the indigent and their families.

The Federal Government and the State of Ohio currently share in the funding of the Medicaid Program and provide more than 1.85 million poor, elderly, and disabled Ohioans with physician, hospital, and nursing home care. Under the Republican proposal, Ohio would lose nearly $8 billion in Federal Medicaid dollars over the next 7 years. To offset these cuts, Ohio would be forced to slash or eliminate health services for low-income families and seniors, divert resources from other important programs, or raise taxes.

Many people do not realize that nearly 70 percent of Medicaid spending goes toward long-term care for the elderly and disabled. These recipients are mostly middle-class Americans who are not aware that Medicare and most private insurance policies do not cover long-term care. Many become eligible for Medicaid when they quickly deplete their income and assets after entering a nursing home where costs average $3000 per month. Republican proposals would have abolished laws that protect spouses from having to sell their homes and assets to pay for nursing home bills, but due to widespread opposition both the House and the Senate wisely voted to retain spousal impoverishment protection.

However, the House version of the Republican Medicaid reform bill repeals Federal standards for nursing home and institutional care. This plan repeals such essential standards as quality assurance systems, staffing requirements, restrictions on physical and chemical restraints, and nutrition guidelines. I was pleased to support a successful Senate amendment which provides for the continuation of Federal nursing home regulations and I will urge conferees to maintain Federal standards.

I support efforts to control the growth of Federal health care spending, but I do not believe that Republicans should balance the budget, and give tax breaks, at the expense of our Nation's most vulnerable citizens. Reform of Medicare and Medicaid should concentrate on strengthening and improving these important programs, not on squeezing out the maximum amount of budget savings. Today, when millions of Americans face limited access

to medical care and live with the fear that an illness or loss of a job will leave them without health care coverage and expose their families to financial ruin, I feel it is essential to expand, rather than limit, access to medical care.

There has been a great deal of debate about priorities in the Senate. I am not convinced the plan before the Senate is a fair reflection of America's priorities. In fact, it is Robin Hood in reverse. This plan to take from the poor and give to the rich might make the Sheriff of Nottingham proud, but it will not balance the budget.

EDUCATION

The Republican budget cuts student loans by $10.8 billion. This makes it much harder for working families and their children to finance a college education. If these cuts became law, the schoolhouse door will be closed for many students willing but unable to afford a college education. Other students and their families will see their choices for an education narrowed.

The Republican proposal increases the interest rate on PLUS loans taken out by parents. The interest rate on parental loans would increase by 1 percent. Families considering PLUS loans are mostly working middle income who make too much to qualify for full scholarships but not enough to write a check for tuition.

The 6-month grace period for graduating students would be eliminated. Interest would pile up during that period and would be added to the loan balance. The bill also charges schools a 0.85 percent fee on loans taken out by their students. This new tax on student loans will be passed on to students and their families, either financially or through cuts in school programs and services.

I supported the amendment offered by Senator KASSEBAUM which restored some of the cuts in the student loan program, but it is only a step in the right direction and does not go far enough to ensure that working middle-income families can afford to provide higher educational opportunities for their children.

ENVIRONMENT

I oppose the provision to allow oil and gas leasing of the coastal plain of the Arctic National Wildlife Refuge [ANWR].

The coastal plain of the ANWR is one of our remaining ecological treasures, containing 18 major rivers, and providing habitat for 36 species of land mammals and more than 30 fish species. This pristine wilderness cannot be replaced. The impact of oil and gas leasing would forever alter this region. While proponents of leasing the ANWR argue that America's oil dependency requires this resource, they also advocate lifting the ban on exports of Alaska North Slope oil which is contained in this legislation.

Americans are committed to protecting national parks and public lands. This commitment extends to protecting the ANWR even if the revenues from leasing the area would be dedicated to deficit reduction. The U.S. Geological Survey recently reduced its estimate of the potential oil yield from this area; therefore, the revenue assumptions in this bill may be grossly overstated. However, Mr. President, the environmental value of this natural area is far greater than any short term economic gain from oil and gas development. I am also opposed to provisions in the bill that will override existing environmental laws and cripple public health and environmental protections.

At the same time, this measure contains provisions that continue to provide millions in annual Federal subsidies to timber, mining, and ranching industries. These subsidies not only lack economic justification but often cause environmental damage. Several of these provisions have been previously defeated or have delayed consideration of other bills. Yet, in an effort to escape the notice of the American people and circumvent the legislative process these dangerous measures have been inserted into this massive reconciliation bill.

Although this bill contains provisions regarding the mining law of 1872, it fails to reform the patenting process and continues to allow the taxpayers of this country to lose millions in revenues from publicly owned lands. In contrast to Federal coal, oil, and gas leases for which the Government receives substantial royalty payments, hardrock minerals are virtually given away under a law that has not been significantly revised since 1872. This situation is unconscionable.

This measure also contains provisions from a Federal grazing bill under consideration in the House. These provisions codify grazing regulations that were in place prior to Secretary Babbitt's proposed grazing revisions. Again, the American taxpayer and our Nation's environment are the losers.

For all these reasons Mr. President, I have concluded that I cannot support the passage of this legislation and I urge my colleagues to oppose the bill.

Mr. DOLE. Mr. President, this debate has been lengthy, and I will not delay a final vote much longer. But I do want to take a minute or two to comment on what is a very historic day for the U.S. Senate.

I have cast over 12,000 votes during my years in the Capitol. Many of those didn't have a great deal of impact on Americans, and are hard to recall. But some votes you remember forever—they are the votes that touch the life of every American, and that change the course of history.

I remember the vote on President Reagan's historic tax cut bill—and the vote against President Clinton's historic tax increase bill.

I remember the vote which made Martin Luther King's birthday a Federal holiday—and I was pleased to lead the debate in favor of that bill.

And I vividly recall the vote authorizing President Bush to send troops to the Persian Gulf.

And no doubt about it, the vote we will cast in just a few minutes is one we will remember forever.

It is a vote for putting America on a path to a balanced budget.

It is a vote for low interest rates, so more Americans can own a house, buy a car, and send their children to college.

It is a vote that will give new life to the 10th amendment, because we are transferring power out of Washington, and returning it to the people, where it belongs.

It is a vote for cutting taxes, and allowing American families to keep more of their hard earned money, and to make their own decisions on how best they can spend it.

It is a vote for securing, strengthening, and preserving the Medicare Program, on which so many of our seniors depend.

It is a vote for real, meaningful, and fundamental change.

And, above all, Mr. President, it is a vote for America's future. For our children and grandchildren—and their children and grandchildren.

It is a vote for the teenager who was in my office a few years back with a group of high school students from across the country. And this young man said to me, "Senator, everyone has someone in Washington who represents them. Someone speaks for labor, for the farmers, for business . . . but no one speaks for us. No one speaks for America's future."

I do not know where that young man is today, but if he happens to be listening, I want to tell him that at long last, someone is speaking for you, some one is speaking for American's future. This Republican Congress had the courage to look beyond the next election, and ask what is best for the next generation.

But I would also tell this young man that our battle on behalf of the next generation is far from over. President Clinton will veto the final reconciliation bill that will be reported out of conference, the forces of the status quo will do all in their power to return to business as usual.

President Clinton says he wants change. But his actions speak much louder than his words.

He says he wants to balance the budget, and at various times, he says he can do it in either 5 years, 10 years, 8 years, or 7 years—but each budget he has proposed doesn't balance the budget in 100 years.

He says he wants to cut taxes for the middle class, but he inflicted the largest tax increase in history on the American people.

He says he wants to save Medicare from its impending bankruptcy, but he has refused again and again to join in a bipartisan effort to do so.

Instead of providing leadership, the President has been content to sit on the sidelines and use increasingly harsh rhetoric to scare the American people.

And that rhetoric reached new lows yesterday with the sad remarks of the President's press secretary, which I will not dignify by repeating.

And there is no doubt that these past few days of debate on the Senate floor have created quite a few sound bites for the nightly news.

Some of my friends on the other side of the aisle would have you believe that each and every Republican Senator has it out for Americans in need.

I just wish that each time the media reported one of these phony accusations, they would follow it up by reporting the truth.

And the truth is, the Republican plan reins in government spending by slowing its rate of growth. The truth is, more than 70 percent of our tax cuts go to working families making less than $75,000 per year. The truth is, the Republican budget allows Medicare to grow by an average of 7 percent per year. Medicare beneficiaries will receive more money next year than they do this year, and they will keep on receiving more year after year after year.

It truly shows you just how ingrained the status quo is here in Washington, how accustomed the liberals have become to spending American's money, when they attack us for wanting to slow the budget's rate of growth.

I remember a few years back, when we were having a serious national debate on the proposal by former Senators Rudman and Tsongas—one a Republican and one a Democrat—to freeze the Federal budget. Just think what the rhetoric would be like if we had proposed a freeze. But we have not. Instead, we've proposed limiting Government's growth to $350 billion over the next 7 years.

So I say to my friends in the media: You have a duty to report the truth to the American people. Report that Medicare will grow, not get cut. Report that Republicans are giving working families a tax cut, and not a giveaway to the rich.

Let me close by saluting Senator DOMENICI for the outstanding job he has done throughout this debate. I know how much time and energy he has invested over the years in the quest for a balanced budget, and I like to think that I know how much this vote means to him.

Congratulations, as well, to Senator ROTH, for his leadership in achieving the historic tax cuts contained in this budget, as well as the Medicare provisions, which involved a tremendous amount of work.

Mr. President, it's no secret this vote is not the end of the budget process. We have repeatedly said that if President Clinton has constructive ideas to offer, we are ready to listen. But, with or without the President's help, we're determined to deliver the change the American people voted for, determined to move America forward, and determined to continue speaking for America's future.

The PRESIDING OFFICER. Is there any further amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2491, the House-passed reconciliation bill; that all after the enacting clause be stricken and the text of S. 1357, as amended, be inserted in lieu thereof. Further, I ask unanimous consent that the bill be read for the third time, and the Senate then vote on passage of the bill, with the above occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me just indicate to my colleagues there will not be a session on Monday. If there is, it will be pro forma only. Let me thank my colleagues for their cooperation. This has been a very important, very historic vote. There is a lot taking place here on this vote. I hope we can have a unanimous vote.

Mr. DOMENICI. Midnight.

Mr. DOLE. Midnight.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—52

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

NAYS—47

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

So, the bill (H.R. 2491), as amended, was passed.

Mr. EXON. 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. LOTT. I ask unanimous consent that S. 1537 be returned to the calendar.

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to take a moment, if I might, to thank all Senators on both sides of the aisle, especially my friend and colleague, the chairman of the committee, for his consideration all the way through this process. We have had a great deal of help from the leader, from Senator DORGAN, Senator KERREY, Senator FORD; the whole Democratic leadership has been very helpful and supportive all the way through this most difficult process.

In the end, though, as we always do, and should, I will take time out to thank the very dedicated staff. I have been on the Budget Committee for the 17 years that I have been in the U.S. Senate. I think we have been particularly well blessed with excellent staff on both sides of the aisle that work very, very well together.

So I congratulate the chairman of the committee, whom it is my pleasure

to work with. We will be working together in the future on a whole series of matters.

I want to end up tonight by taking a moment to thank the Democratic staff members of the Budget Committee for the truly outstanding job they did during the consideration of the reconciliation bill and through all of the procedures that we had in the Budget Committee. I would like to extend my appreciation, therefore, on our side to the key members of our staff: Amy Abraham, Andy Blocker, Kelly Dimock, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Bill Dauster, Jim Klumpner, Nell Mays, Sue Nelson, John Rosenwasser, and Jerry Slominski.

Mr. President, these were outstanding people that do an outstanding job. I thank them for their dedication, talent, and for all the help that they give not only to the ranking Democrat but all Democratic members of the committee. I thank them very much.

If I did, I did not leave out Phil Karsting intentionally. The leader of that group, of course, is Phil Karsting, who has been there for several years now as the central director of everything that we do on the Budget Committee. He has been sitting here advising Members of the Democratic side and working closely with many people on the other side of the aisle. I have always been particularly impressed with the good working relationship that Bill has with the Bill on that side. That is what makes things work in the end. I am very proud of all of the staff.

Mr. DOLE. Mr. President, I just want to thank all Members, as I did before. I thank the Democratic leader. We were able to work together. We had 58 votes. We were on the bill 42 hours. As the Senator from West Virginia pointed out, we had a record number of votes today—39. So we exceeded both records that the Senator from West Virginia talked about earlier.

I particularly thank the distinguished Senator from New Mexico, Senator DOMENICI, his staff, my staff, and all the staff on this side. Also, a special thanks to the Senator from Alaska, who has been presiding much of the day. We appreciate the way he has handled the duties of the chair. It has made it much easier for all of us.

Also, I thank my colleague from Mississippi, Senator LOTT, who has actively been working on a daily basis to find out how many votes we would have on these various amendments, and for all the cooperation we have had on this side of the aisle.

This is a historic vote. We have to go to conference, and it is not going to be easy. We need to pass the conference report. There is an indication that the President may veto the bill. I hope that is not the case. Any way you look at it, this is a historic vote. We watched the House yesterday sail through theirs in about 6 or 8 hours. It took us a little longer, but the results were the same.

Mr. President, 52 out of 53 Republicans have voted for this historic package, which is going to mean a lot of things to a lot of people, whether it is preserving and strengthening Medicare, or reforming welfare, or cutting taxes for families with children—not the rich, but families with children and, most importantly, balance the budget by 2002. I do not care where you are, who you are, what your politics are, people want to balance the budget. That is precisely the reason we have gone through this effort day after day, week after week, in all the committees, and that is why all the chairmen and all the others have been working so hard.

Now it becomes a special responsibility for the Budget Committee chairman in the conference, working with Republicans and Democrats. We are not going to waste any time. We are going to start on Monday. We have work being done this weekend by the staff. Monday, I will meet with the Speaker, and we will be talking about how we can speed up the conference and how we can, if possible, meet the deadline by November 13 to have a conference report. So we are working on the conference already. We have had staff looking into some of the areas in sort of a pre-conference effort. I believe we will be able to complete our work.

Again, I say to the President of the United States: If you want to make some arrangement, or negotiate, whatever, I think both the Speaker and I have said, again this morning, we are prepared to meet. We think it would be a little presumptuous of us to call the President. But if he wants to call us, obviously, we are more than willing to sit down with the President of the United States to talk about what we are doing, what he hopes to do and see if there is any common ground.

Again, I thank all my colleagues.

Mr. DOMENICI. Mr. President, might I thank Senator DOLE for his kind words, and might I say to more people than I can mention how much I appreciate their efforts. I say with a bit of pride that the Budget Committee is frequently not liked around here. They seem to always be telling somebody what to do. Those who serve on the Budget Committee know that this all started there. Without that budget resolution and this process, we would clearly not be changing the country from the way it is being run today, from the way Government is run to the way we would like it. I am very proud of it.

I have been working at it about 22 years, and I never thought we would get to this night. We still have some work to do, but there can be no doubt that we have proven that using the procedures of the U.S. Congress, as onerous and difficult as they are, we can get a balanced budget; that we can change programs to meet the goals and objectives of our people, and to do that which is best for America.

It is obvious to everyone that America cannot continue to spend $482 million a day more than it takes in. The real goal is to pay our bills as we accrue those bills, and let the adults take care of the problems of our country and not pass them on to our children and grandchildren. That is the issue. Do we want strong money and a strong economy, lower interest rates and our standard of living going up? Or do we want to watch it dwindle away, little by little, as that gigantic deficit will do? We have shown that we can change things enough to change the course of the economic history of our Nation, I think, for the better.

Obviously, none of this could be done without some fantastic staff people. I do not have a list of all of ours, but I am going to just say that without Bill Hoagland at our side, we probably would not be here. He comes up with the ideas, and I get credit for it, or Senator DOLE does, or even Sheila does. Everybody gets ideas from Bill Hoagland, and they are right more times than not.

There are a few Senators to thank. Hard work was done in one committee, the Committee on Finance. I am sorry we instructed you to save so many dollars and cut so many taxes. But the Finance Committee, led by BILL ROTH, did a magnificent job. That was obvious here today. A special thanks to SPENCER ABRAHAM, a member of our committee, who worked hard. I asked him to do a special job for me, in a special way, and he did it very well. I thank him so much for that.

With that, let me say one more time, as I have many times in the past, thanks to Senator EXON, whom I frequently slip and call Governor, for the wonderful job that he does in representing his side of the aisle in getting this work done.

He and his staff also are nothing but quality and excellence, and to the minority leader who is standing here now, I want to say thank you. It was difficult at first to reach some accommodation.

It was sort of like we were shadowboxing maybe for the first 7 or 8 hours. In fact, you might have wondered whether we would ever get in the ring. That was by design. Yet, you got much of what you wanted by way of votes for your people, and we got what we wanted: Final passage of a great bill.

I want to begin by thanking my colleagues. I wish to thank the staff and all members of the Budget Committee for their hard work. I would also like to thank all of the committee chairmen who worked so diligently to meet the terms of the budget resolution and add flesh to its bones.

Also, I would thank the able ranking member, Senator EXON, he is a fine friend and an able adversary. The Senate will be a poorer institution when he departs next year.

And, finally, I would like to take a moment to acknowledge the constant and determined leadership of the majority leader, Senator DOLE. We all know, he is a remarkable American. And his commitment to keeping his promise to the American people—to give them the first balanced Federal budget in 26 years—is the reason we are here tonight. As always, he has kept his word and has provided this Nation the honest, effective, and steadfast leadership that has defined his tenure in this body.

I speak about Senator DOLE's leadership because that's what the vote we are about to cast is all about. Leadership. Honest leadership that protects America today, and tomorrow.

Leaders, it's been said, are the custodians of a nation. Of its ideals, its values, its hopes and aspirations. Those things which bind a nation, and make it more than a mere aggregation of individuals.

But governing for today is much easier than leading for the future. It does not take a great deal of talent or courage to solve the immediate need. It's not a lot harder to pave a pathway for the future.

Yet, we who serve in public office have a responsibility to protect the future. We must work on behalf of those who will follow us, our children and grandchildren. We are the trustees of their future, of their legacy of their opportunities.

Leadership requires courage. It requires boldness and foresight to safeguard a nation's ambitions and confront its challenges.

President John Kennedy put it this way when he said: "To those to whom much is given, much is required." And he reminded us that, as public servants, we would be judged, at least in part, by our courage.

I couldn't agree more.

Eight months ago my Republican colleagues and I began a courageous effort to throttle runaway Federal spending and give the American people the first balanced Federal budget in more than a quarter century.

We knew it would be difficult. We knew it would require determination and endurance. But we had promised the American people we would balance the budget and put an end to the persistent deficit spending that has been bleeding our Nation dry.

A deficit growing by $482 million a day; $335 thousand a minute; and $55 hundred every second. Let me repeat that last figure again—our deficit is currently growing at $5,500 a second.

Deficit spending is draining the economic lifeblood of our country.

It's heaping mountains of debt upon our children and which will drag them down. We are irresponsibly shackling our kids with our bills. And, left unchanged, they will be the first generation of Americans to suffer a lower standard of living and less opportunity than their parents.

Yet, if we pass the budget before us, we can reverse this tide.

This budget will restore our Nation's fiscal equilibrium and preserve America as the "land of opportunity" for this and future generations. It reflects a commitment to fiscal responsibility, generating economic growth, creating family-wage jobs, and protecting the "American Dream" for all our citizens—young and old alike.

This is not just rhetoric. A recent DEI study concluded a balanced budget would boost America's yearly output by 2.5 percent over the next 10 years. And it would mean 2.4 million more jobs by 2005.

Further, a recent GAO study suggests that an average family's income will increase as much as $11,200 over the next 30 years. And the CBO says interest rates will decline by as much as 1.7 percentage points by 2002.

That means less debt for our children and more money in the pockets of working Americans today.

Opponents of this budget have employed every trick, every political maneuver, and every scare tactic to halt our march to a balanced budget and forging a more efficient and more responsive Federal Government.

But here are the unvarnished facts:

Under our budget, Federal spending will continue to grow, We'll spend $12 trillion over the next 7 years. That's only $890 billion less than we would otherwise spend.

We balance the budget without touching Social Security.

This budget shrinks the Federal bureaucracy, eliminating many Federal departments, agencies, and programs.

We move money and power out of Washington and back to citizens in their States and communities.

This budget reforms the welfare system while maintaining a safety net for those in true need, especially children.

And it preserves, improves, and protects Medicare.

We began this debate by calling for unity in this effort. It was our hope that all of us, Republican and Democrat alike, would shoulder our basic responsibilities. We asked colleagues on both sides of the aisle to work together in the bipartisan spirit the American people are looking for.

We only requested that we move swiftly, while we still have time, to confront the debt crisis that threatens to suffocate our Nation's vitality and snuff out its economic growth.

But rather than cooperation, we were met with confrontation. That's too bad. Because at every turn in this process, this Senator has tried to reach out to my Democrat colleagues and to the White House in hopes they would work with us.

Yet, they declined. I believed they did so because they underestimated Republicans stamina and the determination of the American people on this issue. They didn't think we would do it. They thought we would fold.

Instead, we persevered. We did something rare in this town. We have kept out word, stuck to our objectives, and, despite the misleading rhetorical flack fired by the guardians of the status quo, kept our word.

So as we prepare to take the final vote on this package I want to say to my colleagues you may not agree with every item in this package. There may be some portions you would like to change. That may happen.

But I want to also remind you that it is an honest, straightforward balanced budget. No smoke. No mirrors. No rosy scenario. Just balance.

The President says he'll veto this budget. I wish he wouldn't but I think I understand the game the White House is playing.

He says he has a kinder, gentler budget that somehow magically gets to balance while spending nearly $300 billion more in domestic programs. He says he can get to balance by spending more and cutting less.

Sound phony? That is because it is. The President's so-called budget hides $475 billion in blue smoke and mirrors.

It's a political document, hastily thrown together last June in response to Republican determination and our passage of the budget resolution.

That is why if we don't pass this budget tonight, we will not have a balanced budget. Because the reality is that throughout this debate we have had to drag this White House kicking and screaming toward a balanced budget.

The chronology is clear. This White House opposed the balanced budget constitutional amendment, its first budget waved the white flag of surrender at the deficit, and, as I said, it only offered a fig-leaf balanced budget after Republicans passed the real thing.

I believe there is still hope. I am ready to meet with budget leaders at the White House anytime so they might join with us in fashioning a budget that gets to balance in 7 years.

I'm ready to do it now. Tonight. This weekend. Yet the White House has it's veto strategy and, apparently, feels we must go through this little mating dance before we get down to business.

But if we don't pass this budget tonight that will never happen. The born-again budget balancers at the White House will quickly fall off the wagon and deficits will continue.

So we can not be swayed by veto threats. We must continue to move forward.

Senators, this is a historic vote. I've waited years for this vote. It is one

more step toward the balanced budget the American people have been screaming for. It is a vote for responsibility. It is a vote for accountability. And it's a vote to stop this Government from borrowing $5,500 a second to buy everything it wants and begin considering what it can afford.

Admiral Halsey told us: "There aren't great men. There are just great challenges that ordinary men like you and me are forced by circumstances to meet."

Tonight this Senate faces a great challenge. Let us—ordinary men and women—have the courage to meet that challenge and, in doing so, preserve America's promise of opportunity.

I ask unanimous consent that the bill that we passed be printed. We do not have it printed yet.

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

[The bill was not available for printing. It will appear in the RECORD of Monday, October 30, 1995.]

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Nebraska for the remarkable job that he did in representing our side during these very difficult days. He has worked with all of the Members of this caucus, as he always does, with professionalism and leadership.

I personally appreciate the contribution that he has made, along with his excellent staff. They have done all the work on this bill from our side in representing us and they have done an outstanding job. I applaud them as well.

Mr. President, the tragedy underlying the passage of this reconciliation bill is that it fails completely to reflect political consensus. We all agree on the need to balance the budget, but there has been no effort by the Republican majority to address Democrats' concerns and the very real concerns of the American people.

We have stated time and again that we want to work with the majority to produce a bipartisan solution to the deficit problem. The President of the United States has held out his hand in an offer of cooperation. Instead of cooperation, we have been cut out, shut out, and our concerns have been ignored.

Along with us, the American people have been shut out of this process, and their values have been trampled upon. As people are realizing how they and their families will be affected in a real way, they are increasingly rejecting the Republican budget plan.

The plain fact is that Democrats have a clear and successful track record of reducing the deficit. In 1993, we achieved $600 billion in deficit reduction without a single Republican vote. The result is that the deficit, as a percentage of the economy, is this year at the lowest level since 1979.

The deficit has fallen for 3 years in a row for the first time since Harry Truman was President. In fact, the 1993 economic plan is working better than even the Administration or the Congressional Budget Office had projected. That is because the economy has performed better than projected since 1993 due to the success of the President's economic plan.

While we seek to balance the budget, we also understand that there is a right way and a wrong way to do it. The budget plan before us is the wrong way. Unlike the Republicans in 1993, this year we offered to cooperate in good faith so long as our basic concerns were on table.

We said $270 billion in Medicare cuts to pay for $245 billion in tax breaks for the wealthy was unacceptable. And we asked that the priorities in this budget be changed to protect children, the elderly, those with disabilities, working families, rural America, and the environment. This debate is about people: seniors who need Medicare, young people who need an education, families who need a fair income—and greater stability, and rural people who want to preserve their way of life.

That is why we are here. It is what unites us as Democrats. It is why we have fought so hard and so long against the harmful provisions of this bill.

None of our concerns was addressed. The majority did not budge one inch on any of the extreme proposals they made.

As a result, this budget is "DBA"—dead before arrival—and is certain to get the veto it so richly deserves.

This is a "reconciliation" bill in name only. Certainly there was no reconciliation with Democrats. There were no hearings, no consultation with Democrats, and virtually no time for debate.

Senate Republicans held a private markup in the Finance Committee, locking out committee Democrats for the first time in history. The congressional majority has exercised rigid party discipline, forcing every one of its members to march in lockstep even if they disagree with the fundamental direction of their leadership.

The Senate received its first look at this package only one week ago. It was not printed and available to all Senators and the public until this Tuesday. The result is a 2000-page abomination we are only now beginning to understand.

This far-reaching, extreme package is being rushed through Congress before public opposition can bring it down. The authors of this budget have not built a consensus with anyone, except themselves. They claim a mandate for their radical course—as if wishing would make it so.

This budget does not reflect the hopes and needs of most Americans. Nor have we reconciled our problems with the deficit.

Under this budget, in the year 2002, there will still be a deficit of over $100 billion, and we will use Social Security money to pay it off. Maybe that is why 80 percent of the American people, in a recent poll, said they believe this bill will not balance the budget. They know it, and we know it.

The only reconciliation that has taken place has occurred in the Speaker's office—in backroom deals between the right and the far right—and between the Republican leadership and a line of special interests that just keeps getting longer. And longer.

Mr. President, our country deserves better than this. This is not what the American people voted for last year.

The American people did not vote last year to cut $457 billion in health benefits to give tax handouts to those who do not need them. They did not vote last year to cut education to millions of students so that some of America's largest and wealthiest corporations could pay no taxes at all. The American people did not vote last year to raise taxes on American families making less than $30,000 so the richest Americans could pay $6,000 less. Nor did they vote not to have a farm bill for the first time in 80 years.

They did not vote for this budget plan then, and they do not support it now.

Mr. President, this bill is not a product of the reconciliation process. It is an abuse of the reconciliation process.

What is in this monstrous package? It contains the largest health care cuts in American history. Two hundred seventy billion dollars in Medicare cuts alone. The mask is off those who have argued that their intention is to "save" Medicare. Their real purpose is to dismantle Medicare.

Three days ago the Republican leaders of both Houses of Congress made clear their real intentions. One stated that creating Medicare was a mistake in the first place, and the other said that Medicare as we know it will "wither on the vine." Their recent statements help explain why they insist on cutting $270 billion from Medicare, when only $89 billion is needed to restore its solvency for the next 11 years. As a first step toward abolishing the program, they are cutting Medicare three times more than necessary to pay for their "crown jewel" offering to the special interests: $245 billion in tax breaks.

Mr. President, this attack on Medicare reveals how far out of touch with the American people the proponents of this bill have become. Medicare is one of the greatest success stories of our time. The American people know that, even if some of their politicians have forgotten.

In 1965, before the creation of Medicare, 46 percent of seniors had health care coverage. Today, 99 percent are covered. Does the majority want to bring us back to the "good old days" when only half of our senior citizens

had health insurance? It would be heartless to go back to the age when our older citizens suffered needlessly from disease and even premature death because they had no access to health care.

The consequences of these Medicare cuts will be severe. Hospitals will be forced to close. Couples will be forced to pay an average of $2,800 more for health care by 2002. Clearly, Medicare is being used as a piggy bank to fund tax cuts for the wealthiest Americans, with no regard to the damage to the health care of senior citizens in America.

This bill dismantles Medicaid. At a time when we have unacceptably high numbers of Americans with no health care coverage, it would deprive an additional 36 million Americans guaranteed health care coverage under Medicaid.

A recent study by the Consumers Union and the National Health Law Program estimates that 12 million Americans—half of them children—would lose their health care coverage under this proposal. Surely the majority doesn't think the American people voted last year to increase the number of uninsured.

Older Americans and their families also have reason to fear the destruction of Medicaid. One-half of the nursing home patients in the U.S., including over 1 million senior citizens, rely on Medicaid. What will happen to the quality of their care under this bill? What justifies putting the spouses and adult children of nursing home residents at risk of bankruptcy?

That is not what the American people voted for last year either.

The majority is telling these people and their families, "You're on your own."

Republicans say, "Don't worry about those details. Think about the tax relief in this bill." But there is no tax relief in this bill for average Americans. There are only new tax burdens for them.

Despite the Republican promises, the typical family in this country earning less than $30,000 will see their taxes increase under this bill. And half of all families in the United States have incomes below $30,000.

This bill represents the biggest transfer of income from the lower and middle income levels to the wealthy that we have ever seen. In one fell swoop, it destroys 30 years of investment in our people.

Most of the pain in the budget—affecting seniors, children, working families, rural America, and the environment—is driven by the insatiable greed on the part of the congressional majority for tax breaks that benefit the wealthiest Americans and large corporations. The richest 1 percent of Americans—those earning over $350,000—will get an average tax break of $5,626.

Many large corporations will pay no taxes at all under this bill.

Not only do these generous handouts to the wealthy require huge cuts in education and health care and so many other areas, they are fiscally irresponsible. The tax breaks will add $293 billion to the debt over the next 7 years—$293 billion in added debt that our children will have to pay off. The costs of those tax breaks will explode after the 7 years covered in this budget. To those who profess that this effort is intended to save our children from the crushing burden of our debts, I would ask them to explain this hypocrisy.

For all the talk we have heard about how this plan is intended to benefit children and future generations, the actual provisions of the bill reveal a different story.

The bill launches an assault on education in this country. By cutting billions for student loans, this bill closes the door on a college education for many Americans.

Other children's priorities are savaged as well. By 2002, up to 6.5 million children could lose health coverage. Food stamps will be cut. Foster care payments will be capped, threatening to throw us back to dependence on the orphanages the Speaker proposes. Countless children threatened with abuse may never benefit from investigations of their situations. This bill plays a shell game with the $3 billion in child care funds that were included in the Senate welfare reform bill. It cuts title XX, the States' primary source of child care money, by $3.3 billion. It is "Home Alone II" for children whose families are trying to work their way off welfare.

Another giant item stuffed into this package is the 1995 farm bill, which drops a bomb on rural America. For the first time in history, the farm bill was included in the reconciliation package. There were no hearings on the Republican plan.

The bill cuts farm programs by 25 percent. Net farm income will decline under this measure by $9 billion. This devastating blow comes on top of the other hits on rural America in the bill—ravaging rural health care and closing hospitals, tax increases on working families, elimination of rural educational opportunities.

Taken as a whole, this package amounts to a raid on rural America that will devastate our rural way of life—perhaps forevermore.

Have we learned nothing from our recent history?

This bill asks us to take another riverboat gamble, like the one Ronald Reagan took when he called for huge tax breaks for the wealthy in 1981. We all lost that gamble when deficits soared in the 1980's as a result. In fact, if it were not for the cost of interest payments on the debt built up under Presidents Reagan and Bush, the budget would be balanced today.

No wonder the American people fear another roll of the dice. According to a recent poll, the public rejects the tax break proposals in this budget by a margin of nearly 3 to 1. The American people have learned a costly lesson from Reagan's riverboat gamble. Eighty-one percent said they believed that even if the Republican plan is enacted, the budget will not be balanced by 2002.

We are saying no to another riverboat gamble, and we will do so with one voice. Unlike 1981, every Senate Democrat will oppose this budget.

This budget is fundamentally flawed. It does not strengthen America. It weakens America. It does not bring us together, it moves us apart. The "haves" will have more, and the rest will have less.

Worst of all, this budget does not reflect the priorities of the American people. The American people reject the idea of cutting taxes before the budget is balanced. They disapprove of the Republican Medicare plan. As the American people are learning whose side this budget is on, they are demanding we change it.

Senate Democrats offered a series of amendments to correct these gross inequities in this bill, both in committee and on the Senate floor. Virtually every one was defeated on a party-line vote. As a result, the destructive, dangerous excesses contained in this bill will not receive a single vote from our side of the aisle. This bill deserves a veto by the President of the United States—and vetoed it will be.

This budget is mean and extreme. It rewards the rich and ravages the rest. It punishes families who need our help most to pay for tax breaks for those who need handouts the least.

It is the wrong plan, for the wrong reason, done the wrong way, to help the wrong people.

Mr. LOTT. Mr. President, much of what the minority leader just had to say has been said over and over again. It, I think, has been answered sufficiently, but it is very hard to sit here and listen to that speech after all that we have been through for the last 3 days.

MORNING BUSINESS

Mr. LOTT. In the interest of wrapping up business after a historic day, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak for up to 2 minutes each.

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

UNITED STATES-JAPAN AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the critically important issue of United States aviation relations with the Government of Japan.

Last month, the United States commenced talks with the Japanese aimed at liberalizing the transpacific cargo market. This is a welcome development and I hope an agreement liberalizing cargo service opportunities can be reached by no later than March of next year—the mutually agreed upon timetable. Clearly, consumers of cargo services on both sides of the Pacific would be the big winners if such an agreement is struck. Talks on more contentious passenger carrier issues have not been scheduled.

As should now be clear from the numerous floor statements I have made in this body in recent months, I have a keen interest in United States-Japan aviation relations. As chairman of the Committee on Commerce, Science, and Transportation, I will continue to make it a priority. At the outset of my remarks today, let me emphasize several related points. Although these remarks refer primarily to passenger carrier issues, they apply with equal force to cargo relations with the Japanese.

First, from a long-term perspective and due to its key strategic location in the Asia-Pacific aviation market, aviation relations with the Japanese unquestionably are our single most important international aviation relationship. At the same time service opportunities in Japan are expanding, air service markets in Asian countries best accessed through Japanese gateway airports are growing at an astounding rate.

Simply put, meaningful participation in the rapidly expanding Asia-Pacific market is absolutely critical for the long-term profitability of our airline industry. For instance, the International Air Transport Association estimates that between 1993 and 2010 scheduled international passenger service in Vietnam will grow at an average annual rate of 17.3 percent. International air service opportunities in China are expected to grow at an annual rate of 12.6 percent over the same period. Overall, it is expected the Asia-Pacific market will account for approximately 50 percent of world air traffic by 2010.

Second, geographic factors coupled with the limited range of commercial aircraft make it essential that carriers seeking to effectively serve these rapidly expanding Asia-Pacific markets can provide that service from Japan either directly or indirectly through a Japanese code-sharing partner. As distinguished from the bottleneck at London's Heathrow International Airport, overflight to markets beyond Japan is not an option since the distances to these markets from the United States are too great. Moreover, as shown by recent unsuccessful experiences, serving the Pacific-Asian market through other gateway countries does not appear to be a viable alternative.

Third, aviation relations with Japan are a very important national trade issue and it is imperative they be treated as such. Indeed, discussion of air service opportunities to and beyond Japan is one of the United States' most important trade issues being discussed with any of our trading partners. The stakes in these talks are enormous. For example, the United States currently enjoys an approximately $5 billion net trade surplus with Japan for passenger air travel in the Asia-Pacific market.

I cannot emphasize strongly enough the importance of our current and future aviation negotiations with the Japanese. Handled properly, air service negotiations with the Japanese could enhance the ability of our passenger and cargo carriers to participate in the rapidly expanding Asia-Pacific market. Handled poorly, the adverse trade consequences could be colossal.

Fourth, what the Japanese are seeking in these negotiations is not to level the playing field as they suggest. Let there be no mistake, the Japanese are seeking no less than to tilt the competitive playing field in such a way as to enable their less efficient carriers to compete more effectively against our carriers. Our passenger carriers serving the Asia-Pacific market have operating costs approximately half those of their Japanese counterparts.

The Government of Japan claims the United States-Japan bilateral aviation agreement is fundamentally unfair and is solely responsible for the greater market share our passenger carriers enjoy on service between the United States and Japan. The facts do not support such a position. Just 10 years ago, under the very same bilateral agreement the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors. What is the truth? As a June 1994 report by Japan's Council for Civil Aviation noted, the fact is our carriers became more competitive by lowering operating costs while Japanese carriers continue to be high cost carriers.

Similarly, the Government of Japan claims our carriers have abused their beyond rights and unfairly dominate beyond markets. Again, a claim without merit. Currently, Japanese passenger carriers have a 34 percent share of the Japan-Asia market while United States passenger carriers have just 13 percent of that market. Moreover, our cargo carriers have only approximately 14 percent of the Japan-Asia market. The facts speak for themselves.

Having made these points—points I believe are critical to the United States-Japan air service relations debate—let me turn to the question of what our goal should be in current and future negotiations with the Japanese. Uncharacteristically, our carriers seem to speak with one voice in saying we need to seek to liberalize passenger and cargo carrier opportunities with the Japanese. There is disagreement, however, with regard to what strategy our negotiators should pursue to accomplish this goal.

In recent weeks it has become readily apparent the debate regarding negotiating strategy will be shaped by two fundamentally different views. To better understand these views, one must remember that our carriers which currently serve Japan can be separated into two distinct groups based on the types of service they are authorized to provide.

The first group of carriers are the so-called MOU carriers. These carriers—American Airlines, Delta Air Lines, Continental Airlines and United Parcel Service—are permitted by a Memorandum of Understanding signed in 1985 to provide service from specific cities in the United States to specific Japanese cities. MOU carriers cannot use Japan as a base of operation to directly serve emerging Asian markets beyond Japan. They can, however, participate in those markets through code-sharing alliances with Japanese carriers. In fact, Delta's recently announced alliance with All Nippon Airways will permit it to do precisely that.

The second group of carriers, whose rights are derived from the United States-Japan bilateral agreement signed in 1952, are permitted to fly to Japan, take on and unload passengers and/or cargo, and to fly on to cities throughout Asia. Unlike the MOU carriers, the so-called 1952 carriers—Northwest Airlines, United Airlines and Federal Express Corp.—have beyond rights. Northwest was a party to the 1952 agreement. In 1985, United Airlines purchased its beyond rights from Pan Am in a $750 million transaction and Federal Express acquired the beyond rights of Tiger International, Inc. in a 1989 transaction valued at more than $1 billion.

In a recent speech, Bob Crandall, the Chairman of American Airlines, set out a possible negotiating strategy for United States-Japan aviation relations. I anticipate other MOU carriers will embrace the strategy Mr. Crandall advocated and I therefore refer to it as the "MOU carrier approach."

Recognizing the Japanese are unlikely to grant beyond rights to MOU carriers, Mr. Crandall urged our negotiators to focus on increasing transpacific opportunities between the United States and Japan. In addition to tapping expanding service opportunities in Japan itself, Mr. Crandall explained such an approach would enhance the ability of United States carriers to feed traffic into Asia-Pacific networks, including the planes of Japanese code-sharing partners who serve markets beyond Japan.

What makes Mr. Crandall's speech notable is not so much his insightful view of the focus our negotiators should take. Rather, it is the strategy

he recommends that is remarkable. In exchange for increased transpacific routes, Mr. Crandall recommends our negotiators should offer to cap the beyond rights of United Airlines and Northwest Airlines. As Mr. Crandall put it, "[s]uch an agreement would trade beyond-Japan rights that Northwest and United do not use, and may never use, for authorities that American and other 'have-not' U.S. carriers are prepared to operate today." I ask unanimous consent that a copy of Mr. Crandall's speech to which I have referred be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. Mr. President, not surprisingly, Stuart Oran, United Airlines' Executive Vice President for Corporate Affairs and General Counsel, recently offered a markedly different view of what our negotiating approach should be with the Japanese. I predict other 1952 carriers will endorse Mr. Oran's view and therefore refer to it as the "1952 carrier approach."

According to Mr. Oran, it would be economic folly for the United States to cap the 1952 carriers' beyond rights and thereby prevent them from growing within the rapidly expanding Asia-Pacific market. In fact, Mr. Oran warned the United States would be playing into the Government of Japan's hands were we to follow the negotiating strategy Mr. Crandall recommends.

To illustrate the point that trading away the beyond rights held by 1952 carriers would be tantamount to ceding the Pacific-Asian market to Japanese and other foreign carriers, Mr. Oran described a recent study by Booz Allen & Hamilton which United Airlines commissioned. That study, which assessed the value of beyond rights in Japan to the United States economy, concluded "the U.S. would suffer a trade loss in excess of $100 billion over the next twenty years—the bulk of which would be transferred to Japan" if the United States agreed to surrender our passenger carriers' beyond rights. Mr. Oran characterized the approach Mr. Crandall recommends as a "sucker deal that would put all U.S. businesses at a permanent disadvantage in the exploding Asian market." I ask unanimous consent that a copy of Mr. Oran's speech be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. PRESSLER. Mr. President, as the debate between MOU carriers and 1952 carriers intensifies, I look forward to learning more about each position and urge my colleagues to do the same. For example, I am anxious to see economic analysis from the MOU carriers regarding their claim that trading our passenger carriers' beyond rights in Japan for increased transpacific opportunities would be in the best economic interest of our Nation. I hope any such study or report would address the findings of the Booz Allen study.

With respect to the 1952 carriers, I am particularly curious what leverage, short of trading existing rights, we have to offer the Japanese in exchange for new transpacific routes. For instance, as United States carriers form alliances with Japanese carriers, will the Government of Japan have a self-interested motive to increase transpacific routes to maximize the feed of passengers originating in the United States onto Japanese carriers who code-share with our carriers?

Of course, the impact each approach has on consumers must be given great weight. I look forward to learning from MOU carriers and 1952 carriers what effect the approaches they advocate will have on consumer choice and the fares that consumers pay.

As I have said repeatedly, I believe our international aviation policy decisions should be based on a careful weighing of national economic benefits and costs. Simply put, the goal of international aviation policy should be to maximize national wealth. In light of our more than $65 billion trade deficit with Japan, it is absolutely essential that approach be the guiding principle in current and future aviation negotiations with the Japanese.

EXHIBIT 1

REMARKS BY ROBERT L. CRANDALL

Thank you, Bruce, and good afternoon, Ladies and Gentlemen. It's a pleasure to be here and as always, I am pleased to have an opportunity to talk with you about the ever-changing * * * and always challenging * * * business of international aviation.

I'd like to spend our time together today on the subject of bilateral negotiations, an aspect of our usually fast-paced industry about which most of the news has to do with what's not happening, as some either drag on, and on, and on, and on—and others simply don't take place at all.

Bilateral aviation discussions between the U.S. and other countries are invariably intense and difficult, for a variety of reasons. One of the most important is that the United States is a very large country, with many competing airlines—which typically offer various competing agendas to U.S. negotiators. Conversely, most other countries are, at least by comparison to the U.S., relatively small and, in most cases, have only one international airline.

The result is that in most bilateral situations, our opponents have far more focused goals than we do.

With respect to Japan, a country with which the U.S. has been unwilling even to launch passenger negotiations, the situation is similar, but modestly different. Japan is a very consensual society and although there are two international airlines, both are willing to accept administrative guidance—or something akin to it—from their government. In the U.S., on the other hand, there is little consensus on any aspect of international aviation and no agreement whatever as to either the tactics or strategy our Government should pursue with respect to Japan. Northwest and United, which have extensive rights, are vehemently opposed to changes while carriers like American, Delta and Continental, which have few rights to Japan and little access to the rest of Asia, think dramatic change is clearly called for.

And passions run high, for access to Japan, and the rest of Asia, is critically important to every internationally oriented U.S. carrier. To compete effectively here in the United States, each such carrier seeks to build the strength of its route network by maximizing the number of origination-and-destination combinations it can offer its customers—and each wishes to include as many international points as possible.

From Americans' perspective, the U.S. Government's unwillingness to open passenger negotiations with Japan, and our consequent inability to gain any meaningful access to the huge and fast-growing Asian market, is extraordinarily frustrating. That is particularly so since we think substantial progress could be made—if only our Government would act in accordance with its own, very recently articulated international aviation policy statement—a point I'll come back to in a minute.

Let me take a moment first to examine the stakes of the game. As I think everyone here probably understands, service rights to Japan are the indispensable key to participation in Asian markets, for several reasons:

One is that today's aircraft do not have the range to fly from most major U.S. hubs to most Asian capitals. Thus, U.S. carriers without the right to use Japan's airports as intermediate hubs are simply unable to participate in the U.S. Asia market.

While the Japanese probably will not grant U.S. carriers like American and Delta the beyond rights we need to solve this problem directly, it seems quite likely that if we had adequate rights across the North Pacific, we could participate in Asia by means of code-sharing agreements with Japanese carriers. Thus, we think additional transpacific rights and the key to broadened American participation in Asia's aviation future.

Second, Japan is Asia's pre-eminent economic power, by a wide margin. Given its dominance, a very high percentage of those traveling to and from Asia want to include Japan in their itineraries. As a consequence, Tokyo and Osaka are the only cities that can effectively serve as intermediate points between the major U.S. hubs and the principal cities of Asia—a point with which even the incumbent U.S. carriers agree.

In addition to being an essential component of any global network, there is lots of evidence that Japan is woefully underserved from the United States. Consider these facts:

Although Japan has a larger economy than Germany, the U.K. and France combined, fewer U.S. cities have nonstop service to Japan than to any one of those countries.

Fares between the U.S. and Japan—on a revenue-per-passenger-mile basis—average 29% more than fares between the same U.S. cities and the principal cities of Europe.

Despite being badly underserved, the U.S.-Japan market numbers 1.0 million passengers per year and is the world's second largest intercontinental market, exceeded in size only by that between the U.S. and the U.K. one can only imagine how large it will be when it is properly served!

Unfortunately, it is not clear it ever will be, for our aviation relationship with Japan is prey to two severely complicating factors:

The first is the unique route rights established by the U.S.-Japan aviation bilateral, which dates from 1952 and enables two U.S.

carriers—Northwest and United—to exercise virtually unrestricted authority to fly from almost anywhere in the U.S. to Japan—and beyond Japan to other points in Asia. To illustrate that point, let me point out that during the last 18 months, Northwest has added more new flights to Japan than American operates in total.

The beyond rights held by United and Northwest are startlingly different from those granted by any other nation to third-country carriers and have enabled Northwest and United to build cohesive Asian networks and establish hubs on both sides of the Pacific. Using this structure, the two carriers can thus participate in all four types of network traffic: First * * * between gateways—from Chicago to Tokyo, for example: Second * * * from behind a U.S. gateway to the foreign gateway—from Cleveland to Tokyo, via Chicago. Third * * * from a U.S. gateway to beyond the foreign gateway—from Los Angeles to Bangkok, via Tokyo.

And finally: From behind a U.S. gateway to beyond a foreign gateway—as in from Boston to Singapore, via Detroit and Tokyo.

Their fifth freedom rights also allow Northwest and United to carry large amounts of traffic between Japan and other points in Asia, thus depriving the Japanese carriers of traffic they regard as theirs, and complicating Japan's aviation relationships with some of its Pacific neighbors—notably China, Thailand, and Australia.

Not surprisingly, both the Japanese Government and the Japanese airlines regard these arrangements as unbalanced—and by the standards of international aviation, they are, indeed, unbalanced.

Other U.S. carriers have much more limited rights. While the 1952 agreement permits both countries to designate multiple airlines, Japan has essentially ignored that proviso for nearly 20 years. Since 1982, Japan has consented to only three very limited grants of additional routes, each memorialized in a memorandum of understanding. The net effect has been to create two classes of U.S. airlines serving Japan:

The two so-called "1952 agreement" carriers, which have very broad rights, and three other airlines—American, Continental and Delta—known collectively as the "M.O.U. carriers"—each of which is subject to substantial restrictions on routes and frequencies, and none of which can operate beyond Japan.

Now as we all know, airlines are network businesses. To optimize traffic flows, each of the major U.S. carriers operates a number of hubs, which it uses to provide nonstop service to as many places as economically feasible in order to maximize the number of origin-destination markets it can offer its customers. The fact that only two U.S. carriers can offer customers in the United States a variety of Asian destinations has significant, adverse competitive consequences for those who can't.

The other factor complicating our aviation relationship with Japan is the unwillingness of the U.S. Government to apply its recently articulated statement of international aviation policy to relationships with that country. Our government's international air transportation policy statement, issued last April, clearly enunciates the most important U.S. policy objective as—and I quote—to "increase the variety of price and service options available to consumers." A second objective is to—and here I am quoting again—"provide carriers with unrestricted opportunities to develop types of services and systems based on their assessment of marketplace demand."

Unfortunately, the U.S. has declined to pursue those objectives in its aviation negotiations with Japan. Apparently mesmerized by the notion that the beyond rights held by Northwest and United are uniquely valuable, the U.S. has adopted a civil aviation policy toward Japan that seems intended to protect the economic interests of two carriers—and let competition, competitors and consumers take the hindmost.

In my view, ladies and gentlemen, that's bad policy—and particularly so since it stands in sharp contrast to our government's aggressive application of pro-consumer policies in other negotiations.

Moreover, this pattern of protectionism is not new. Successive U.S. Transportation Secretaries have pledged to eliminate the disparity between the have-not carriers and the Northwest/United duopoly.

In 1985, D.O.T. premised its approval for United's acquisition of Pan Am's Pacific routes on United being made ineligible for new Japan routes in future D.O.T. proceedings.

During the 1989 U.S.-Japan negotiations, then-Secretary Sam Skinner gave as one of his objectives: "The enhancement of the operating rights of the so-called M.O.U.-carriers."

When it instituted the 1990 U.S.-Japan route proceeding, D.O.T. said it would base awards on—I am quoting now—"The overall structure and level of competition in the U.S.-Japan market," end of quote—and would also give weight, and again I quote, "To expanded service by those with only limited U.S.-Japan authority"—unquote.

All those promises notwithstanding, our Government's actions in recent years have only enhanced the market domination of the United-Northwest duopoly. In the 1990 proceeding, our Government granted the most important new route—Chicago-Tokyo—to United, and then proceeded to give two of the remaining routes to airlines unable or unwilling to fly them—which promptly sold them to Northwest. The bottom line: three of the six routes available in 1990 ended up in the hands of the Northwest/United duopoly—despite D.O.T.'s promise to strengthen the M.O.U. carriers.

So here we sit. Since deregulation—which sometimes seems like just yesterday, but which actually occurred 17 years ago this month—we have transformed American from a domestic airline to a global competitor—but we remain shut out of Asia. Delta and Continental have had equally little success.

It is time for a change—and if the U.S. will apply its stated international aviation policy, we think change is possible. For more than a year now, the Japanese Government has been signaling a willingness to expand service between the U.S. and Japan, and to work out arrangements to rebalance our relationship. We believe Japan's Government recognizes that it cannot realistically hope to withdraw the beyond rights Northwest and United already operate—but that it does want to constrain the further growth of their beyond operations.

In our view, a U.S.-Japan agreement premised on limiting the expansion of beyond operations by the duopolists, in exchange for a substantial increase in operating rights between various U.S. cities and Tokyo and Osaka, would be good for consumers, good for competition within the U.S. and across the North Pacific, good for the U.S. trade balance with Asia overall, and fully consistent with the D.O.T's international aviation policy statement.

Such an agreement would trade beyond-Japan rights that Northwest and United do not now use, and may never use, for authorities that American and other "have-not" U.S. carriers are prepared to operate today. These new U.S.-Japan services would have many favorable effects: (1) more competition within the U.S., (2) more competition, and lower prices, across the North Pacific, (3) more travel, by more visitors, to and within the U.S., with all the attendant increased employment and wealth creation such increases create, (4) and more orders for U.S.-built aircraft.

In addition to seeking a rational accommodation with Japan, which will provide more transpacific opportunities for more U.S. carriers, the U.S. can—and should—act affirmatively to optimize the value of its route rights with other Asian countries. For example, the use of Japan as an intermediate point has long been a bone of contention between the U.S. and China—and thus, our negotiators have had little success in modifying the U.S.-China bilateral.

China's Government wants nonstop service—which American and others stand ready to provide—but has not been willing to allow any new U.S. carriers to provide it so long as Northwest and United insist on serving their country via Tokyo.

By accepting China's position that a Japanese intermediate point may not be used in U.S.-China service, the U.S. would improve its aviation relationships with both Japan and China. Bettering both flight links and other relationships with China, with which the U.S. already has a huge and growing trade deficit—and whose future seems limitless—is clearly very important—and everyone wants a better relationship with Japan.

Aviation disagreements do not defy resolution. Countries that dislike bilaterals enough eventually renounce them—as the U.K., France, Italy, Peru, Thailand, India and others have done with respect to the U.S. at one time or another. In a comparative sense, Japan certainly has a far more legitimate complaint than the U.K. had in 1976, when it renounced Bermuda I.

Japan has already begun to restrict various rights held by U.S. carriers and the recently launched U.S.-Japan cargo negotiations are making little if any progress. In my view, the U.S. would be wise to initiate comprehensive negotiations now. Although proceeding under provocation is not ordinarily an advisable course, I do not see how U.S. interests are well served by protecting doupolies at the expense of reason, consumers and competition.

This is especially true since the Japanese Government apparently seeks more comprehensive discussions, which would lead us to believe that mutual accommodation is likely. Assuming the U.S. is willing to adopt a stance consistent with its international aviation policy statement, as it has in other bilateral negotiations, we believe the time is right for a settlement consistent with the best interests of all parties.

A passage from Shakespeare's "Julius Caesar" says it far more eloquently than I can:

There is a tide in the affairs of men,
Which, taken at the flood, leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries.
On such a full sea are we now afloat,
And we must take the current when it serves . . .—

EXHIBIT 2

REMARKS BY STUART I. ORAN

Good morning. It's a pleasure to be with you today.

I am delighted to have this opportunity to talk about United's vision of aviation in the next century—global networks providing seamless service for our customers.

Perhaps we can look to the telecommunications industry for a model of our vision for the future of global aviation. There, U.S. companies have developed a truly global service network. You can pick up your phone and call anywhere in the world, yet deal only with one of a number of companies. This network, which we take for granted, is the product of carefully integrated systems, cross-border alliances, realistic government regulation and forward thinking telecommunications companies.

We believe that consumers are entitled to that kind of ease and convenience from airlines as well. A passenger should be able to deal with a single carrier for an itinerary that takes him anywhere in the world. To do this, we need a network of alliances—of rights and beyond rights—for carriers.

Everyone understand the importance of beyond rights of networks today, but they didn't in 1976, when Bermuda II was under discussion.

Ambassdor Alan Boyd of the U.K. offered testimony to the House Subcommittee on Aviation on the need to renegotiate the Bermuda I Agreement of 1952, calling it unfair to the U.K. He told committee members that under the agreement, U.S. airline revenues were twice those of the U.K. And he concluded that the only way to rectify the disparity was to rewrite the Bermuda Agreement substantially.

Ambassador Boyd was correct on one point—a significant revenue imbalance did exist between the U.K. and the U.S. But the reason for the imbalance had little to do with route assignments or agreements. It had to do with competitive market forces and the then inability of a bloated, protected, government-owned British Airways to compete. How times have changed.

Unfortunately, Congress and government regulators went along with Ambassador Boyd.

The results, as we know too well today, was Bermuda II. That new agreement created dramatic structural advantages for the U.K. out of a growing European market. Since then, the U.S. market share between the U.K. and the U.S. had dropped 25%. But even more important, that agreement effectively locked the U.S. carriers out of the key connecting complex in Europe—Heathrow. In effect, U.S. carriers were punished for their efficiency. We've spent the past 19 years trying to correct the Bermuda II mistakes.

I recount this today not to rub new salt into old wounds, but to look at the lessons of the European market. We would like to make sure that history does not repeat itself—this time in Asia.

For nearly 25 years, the 1952 Japan Air Service Agreement enabled competitive parity between U.S. and Japanese carriers. It was not until 1986, when United acquired Pan Am's rights in the Pacific, that the parity began to dissolve. The reason was simple—United took the necessary and often painful steps to becoming more efficient in the newly deregulated U.S. market. Meanwhile, the Japanese carriers, operating in a highly protected environment, avoided similar changes. The result today is that Japanese costs are considerably higher than those of their U.S. competitors.

Let me underscore just how much higher those costs are. We commissioned Booz-Allen & Hamilton to conduct a major study—to be released today—on the value of Asian beyond rights to the U.S. economy. Among their key findings was that Japanese carriers' cost are now roughly double that of U.S. carriers at comparable stage lengths.

The fact that the Japanese flights are more expensive is not lost on the traveling public. Because of our efficiency, we have developed fares and schedules preferred by the Japanese consumers. As a result, the parity that long existed between U.S. and Japanese carriers is gone. Today, U.S. carriers provide 61% of the capacity serving Japan and the U.S. enjoys a $4.8 billion net trade surplus with Japan for passenger air travel in Asia.

Rather than respond to this competitive challenge by restructuring their airlines—a change that is unavoidable at some point and that will benefit the Japanese people in the long run—the Japan Ministry of Transportation (MOT) has chosen instead to vilify the 1952 Air Service Agreement. Their claim is that the '52 agreement is unfair and gives the U.S. a competitive advantage.

Does this sound familiar? Like the British did in the '70's, the MOT is blaming the agreement rather than their own protectionist aviation policies for their declining transpacific market share.

So MOT has decided not to honor the '52 agreement. Most recently, the MOT has denied a request by United Airlines to begin flights between Osaka and Seoul, despite our right to fly unlimited routes between Japan into Asia. By denying this request, the MOT is abrogating the treaty, and attempting to force the U.S. to negotiate for a right its carriers already have. To add insult to injury, JAL is at the same time seeking to expand flights from Sendai to Honolulu. We are asking the Department of Transportation today to deny any increase in JAL's service until our Osaka-Seoul business plan has been approved by MOT.

MOT's position ignores an important lesson we learned with British Air and Bermuda I. Competitive positions are not static. Of course, the Japanese carriers will improve efficiency over time as they continue to cut costs and improve service. For the U.S. to overreact now, and surrender critical U.S. carrier beyond rights, would be a sucker deal that would put all U.S. businesses at a permanent disadvantage in the exploding Asian market.

I cannot underscore this important idea strongly enough. Ultimately, this is not just about United. It's about trade and MOT's approach to trade disputes in the aviation sector. It's about Japan's drive to monopolize the U.S.-Asia and Japan-Asia markets. In this case, MOT believes it can unilaterally interpret or simply ignore agreements with impunity when it suits them. And they have little regard for the damage this strategy causes to international relationships, or the havoc it wreaks on the marketplace.

And just how much havoc will MOT cause? According to Booz-Allen, if the U.S. gives up its beyond rights as MOT wants, Japan would receive a virtual monopoly on U.S.-Asian routes through Japan; Japanese carriers would gain up to $5 billion in present value from the earnings stream lost by U.S. carriers, and the U.S. would suffer a trade loss in excess of $100 billion over the next twenty years, the bulk of which would be transferred to Japan—$100 billion.

Let me describe some more of the consequences of MOT's strategy.

MOT's strategy will hurt the U.S. economy.—If MOT succeeds in blocking U.S. beyond rights, the Booz-Allen estimates of a cumulative trade loss of $100 billion dollars is actually conservative. That impact would be compounded by the multiplier effect on U.S. jobs and economic activity. As a result, the entire U.S. economy would feel the sting of MOT's aviation whip.

MOT's strategy will hurt consumers.—Booz-Allen predicts that if the U.S. carriers lost all or any of their rights to carry passengers beyond Japan to other Asian cities, capacity will drop and fares will increase. Consumers will lose service alternatives, not only between the U.S. and Japan, but to other Asian cities as well. Travelers will pay more and get less.

MOT's strategy hurts U.S.-Japanese relations.—Their plan makes a mockery of the 1952 Air Service Agreement. If MOT is allowed to dishonor the 1952 accord, how can it be trusted to respect other bilateral agreements? And we certainly can't expand their routes into and beyond the United States if they won't honor existing treaties.

MOT's strategy will impose a stranglehold over Asian aviation.—MOT is trying to position Japan as the gatekeeper of Asia, by controlling traffic both into and out of the continent. If it is successful in hobbling U.S. carriers, it will then turn its attention to the other competition, the Asian Carriers. In short order, we would see a steady stream of Asian carriers—Chinese, Indonesian, Korean, Malay, Taiwanese, Thai and Singaporean—forced to beg MOT for beyond rights to North and South America. And without the counterweight of U.S. competition, Asian carriers would become prey in their home markets to the predatory Japanese airlines.

MOT's strategy hurts U.S. carriers.—U.S. carriers will lose the right to grow in Asia—the region projected to have the highest growth in air passenger transportation over the next 15 years.

How does United see the preferred course for the future?

Using Europe as a model, we see 4 or 5 major alliances forming the core of services in Asia, with many niche players finding important roles. There is no reason why this model can't be a win-win situation for everyone in Asia. The alliances into which United has entered are designed to achieve a global network, including Asia. We have no problem with others entering the same kind of alliances, for example, the two principal Japanese carriers with U.S. carriers—because we believe that when equitably administered, we can beat the competition.

But first, MOT must honor the existing terms of the 1952 accord. This must be a prerequisite for passenger talks.

Once all parties involved agree to respect the 1952 pact, we would encourage the U.S. Department of Transportation to develop a detailed economic analysis of Japanese aviation and its relationship to U.S. carrier competitiveness in Asia. We would urge that DOT use that analysis as a starting point for negotiations with MOT.

Japan's carriers may today be overpriced and unresponsive to consumers' needs just as British Airways was 20 years ago. But the solution is not to lock up the skies and give Tokyo the key. To do so would simply recreate the mistakes of Bermuda II.

The solution to this dispute must respect the principle of open competition. We see it working in Europe, where competitive alliances provide a blueprint for global aviation.

The solution must acknowledge that competitive position are not static. One way or another, Japan's carriers will have to modernize and those changes will affect their standing in the air travel marketplace.

And above all, the solution to this dispute must honor existing agreements before creating new ones.

Going back to our telecommunications analogy, we want to provide a "seamless" journey for passengers. With a progressive, sound, and resolute U.S. approach to international aviation matters, we believe that this goal can be achieved on a global basis. But as long as we allow one nation to control international air space, there can be no global aviation. Not today. And certainly not in the year 2010.

Thank you. I look forward to your questions.

U.S. SUGAR PROGRAM

Mr. INOUYE. Mr. President, I agree that debate and open scrutiny of the Sugar Program is important this year. I would like my position to be clear. Though I accept that some level of reform to the program is inevitable and necessary, I do not believe emasculation or outright elimination is wise.

My grandfather and grandmother emigrated from Japan to work at McBryde Sugar Co. on the Island of Kauai in 1899. In my office here in Washington I have a framed copy of the contract on which my grandfather, Asakichi Inouye, placed his "X." The contract includes a photograph of this brave young man and his wife, and a little baby boy they are holding. My father.

Nearly a century later, Asakichi Inouye's grandson is proud to be representing the State of Hawaii in the U.S. Senate. McBryde Sugar is phasing over to coffee production, but sugar is still the biggest agricultural activity in Hawaii. Sugar is still the third biggest business in Hawaii, trailing only tourism and defense spending.

I am proud to represent the 6,000 men and women in Hawaii who still work directly or indirectly for the sugar industry, and their families. All these people's livelihoods are at risk if the U.S. sugar policy is eliminated.

I am proud to represent agricultural workers who are among the world's most productive. Hawaii produces more sugar per worker, and per acre, than anywhere in the world.

Our workers have enjoyed collective bargaining for decades and are rewarded for their productivity with good wages, with some of the best health care benefits in the country, and with generous benefits for insurance, retirement, and in many cases, housing. Their safety and their health are bolstered by some of the strictest worker protection rules and highest environmental standards in the nation, and possibly in the world.

These workers, many of whose families have been in sugar for three or four generations, lead comfortable, but by no means extravagant lives, can put their children through college, and can look forward to a decent retirement.

Sadly, Hawaii sugar production has dropped nearly in half in just the past 7 years as half our sugarcane plantations have shut down. Why have these farms closed? Because producer prices for sugar have been flat, or even declining, for the past decade. Despite their extraordinary productivity, these farmers cannot reduce costs rapidly enough to cope with inflationary prices for their inputs and flat or declining prices for their output.

In the absence of U.S. sugar policy, an abrupt decline in U.S. producer prices for sugar is a virtual certainty. If U.S. producer prices for sugar decline further, Hawaii's remaining sugarcane farms will close. Thousands more of my constituents will lose their livelihoods.

This sad situation will not be unique to Hawaii if we lose the Sugar Program. Similar scenes will be played out in the many rural areas of this country dependent on the sugar industry.

Let me say, however, that I would not object to the elimination of the Sugar Program if other nations also eliminated any and all measures to favor their domestic sugar producers, processors and consumers. However, we must consider the realities of world market conditions such as the sugar price support in the European Union, which is 35 percent higher than that of the United States. A U.S. Sugar Program is a necessary response to generous production and export subsidy programs in other countries.

Opponents of the Sugar Program say that it costs Americans over a billion dollars annually and point to the low world price of sugar, which hovers around $0.14 per pound, as the savior of the American sugar consumer. However, this fictitious world price is created by the direct financial subsidies and export incentives provided to foreign producers by their own governments, which in turn allow these producers to dump excess sugar on the supposed world market at substantially below production cost. If we think there is an endless supply of this dump-priced sugar, we are fooling ourselves into relinquishing control of our domestic market to foreign producers.

I believe that if we had a level playing field, we could play at the highest level of competition with anybody. While the GATT, the NAFTA, and the Canadian Free-Trade Agreement are moving us in that direction, I do not believe we are there yet.

I would also ask, "How has the U.S. Sugar Program fared as a domestic public policy?" While there are several dimensions to such an evaluation, I focus on three particular aspects: impact on the American consumer, impact on the innovativeness of the producing and processing components of the U.S. sugar industry, and impact on the Federal Treasury.

Under the U.S. Sugar Program, American consumers have enjoyed a retail price of refined sugar that is lower than that paid by consumers in other developed countries. On average, sugar prices paid by Americans are nearly 30 percent lower than in other developed nations.

In April of this year, the average retail price of a pound of sugar in developed nations was $0.54; the price was only $0.39 a pound in the U.S., but over $1.00 in Japan and about $0.69 in France. Relative to other developed countries, U.S. consumers save approximately $2.6 billion annually on purchases of sugar and products sweetened with sugar.

However, besides price, American consumers demand consistent quantity and quality. In other words, when consumers go to the grocery store to purchase sugar, they expect a high quality product that is safe and contaminant free, and identical with every purchase. They also expect to find such products on the shelf whenever they want to buy them. This is exactly what the American consumer gets from the U.S. sugar industry—so much so that we take it for granted. However, one need only recall the shortages in the former Soviet Union to know that this is not a universal occurrence. Thus, from a consumer viewpoint, I give high marks to the sugar program as domestic public policy.

Another aspect of public policy is how well it stimulates innovation in the production and processing components of the industry. Simply looking at the increasing productivity of domestic sugar producers and processors will clearly signal the fact that the sugar program has not stifled innovation.

You do not get the deserved reputation as one of the most efficient sugar producing nations in the world by suppressing innovation. Support of domestic sugar production and processing has been maintained at a level to protect against unfair competition, but not at a level to preclude fair competition. Thus, from the innovation-encouraging perspective, I give high marks to the sugar program as domestic public policy.

Finally, Federal law requires that the sugar program operate at no cost to the Federal Treasury. U.S. sugar growers receive absolutely no subsidy from the Government. The only payments are from the producers to the Government. In fact, through a congressionally mandated marketing assessment, the U.S. sugar industry actually contributes more than $30 million annually to the Federal Treasury. So, considering its benefit to the Federal Government's economic condition, I again give high marks to the Sugar Program as domestic public policy.

Let me close by saying again that I am not opposed to necessary and useful reform to the U.S. Sugar Program this year; though I do not think that unilateral disarmament is the solution. The sugar industry has committed itself to supporting an elimination of the Sugar Program if and when other sugar

producing nations take the same action. I will make this commitment as well. Until we reach that time, however, we must protect our industry, our market, and our consumers from subsidized competition from abroad.

SOME SECOND THOUGHTS ON THE FIRST AMENDMENT AND CENSORSHIP

Mr. LIEBERMAN. Mr. President, I rise today to call my colleagues' attention to a thought-provoking speech recently given by Judge Robert Bork about the media, and our perceptions of the first amendment and censorship.

Judge Bork, who is now a resident scholar at the American Enterprise Institute, made these remarks at a forum sponsored by AEI entitled, "Sex and Hollywood: What Should Be the Government's Role?", at which I had the privilege of speaking. As the title suggests, this forum sought to examine what effect the media's bombardment of sexual messages is having on our children and our culture, and what steps the Government can and should take to address the public's growing concern about the threat posed by these increasingly explicit messages.

In his comments, Judge Bork argued that this threat puts not only our children at risk, but our civil society as well. If the entertainment industry's standards continue to drop, he suggested, the Government would be well within its constitutional bounds to take more active steps to protect children by regulating lewd and indecent content. In making this argument, Judge Bork reminded the audience that the Government has regularly played the role of censor—albeit a limited one—for most of our history, and that in recent years the general notion of what forms of expression are fully protected by the first amendment has, in Judge Bork's eyes, become distorted. Judge Bork's comments remind us that our commitment to free expression must be balanced by our commitment to protect our children and the moral health of our Nation.

With that, Mr. President, I ask unanimous consent that the text of Judge Bork's statement be printed in the RECORD.

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

SEX AND HOLLYWOOD: WHAT SHOULD THE GOVERNMENT'S ROLE BE?

(Remarks at the Sexuality and American Social Policy Seminar, Washington, DC, Friday, September 29, 1995)

Lionel Chetwynd is surely correct in reminding us that motion pictures and television are not solely, perhaps not even primarily, responsible for the social pathologies that are rampant in America today.

An interesting fact that tends to bear out that conclusion is that in both the United States and the United Kingdom the rates of illegitimacy and violent crime, after long periods of stability, began rising in 1960. That was well before movies and television became as sex- and violence-drenched as they are today.

It is also true that Hollywood's selling of sex has to be seen in the context of all the sexual messages that flood our culture.

That said, it is impossible to believe that Hollywood's sexual messages have no significant impact on sexual behavior. I find persuasive Jane Brown's and Jeanne Steele's giving of a qualified "yes" to the questions whether the sexual messages being sent promote irresponsible sexual behavior, encourage unwanted pregnancies, and lead to teenagers having sex earlier, more frequently, and outside of marriage.

One of the most persuasive items of evidence is the effect movies and television have had on levels of violence. Why images and words would affect one form of activity and not the other is unclear, particularly since one who contemplates violence must also contemplate the possibility that he is the one who will be hurt. There is no such deterrent to one contemplating sex. The prospect of pregnancy is unlikely to deter teenagers with a short time horizon.

I am unpersuaded by the argument that the market will take care of the problem. We are told that there is more sex on prime time TV this year than ever before. As for the movies, we will have to wait to see whether "Showgirls" is commercially successful. If it is, the market will ensure that the floodgates open.

There is a major problem caused by the fact that Hollywood must compete with other modes of delivering sexual messages, messages that are increasingly perverted. Some of this is the material on cable channels, which are, I suppose, part of the generic term "Hollywood." But there is also Internet, which supplies prose and pictures of small boys and girls being kidnapped, mutilated, raped, and killed, and even supplies instructions on the best time of day to wait outside a girls' school, how best to bundle a girl into your van, and the rest that follows. Soon it will be possible to get digital films of such materials on home computers.

The market will not take care of that problem. We already have the evidence for that conclusion. The pornographic film business exploded in profitability when it was no longer necessary to go to an "adult" theater to see pornography. It has been possible for some time to avoid the embarrassment of being seen entering such a theater by renting pornographic video tapes. The business is making billions of dollars annually and is expanding rapidly.

But when pornographic and frequently perverted films are available on home computers, the customer will not even have to face a clerk in getting a videocassette or be seen browsing the X-rated film racks. What we have learned is that the more private viewing becomes, the more salacious and perverted the material will be. On Internet, people are downloading still pictures of pedophilia, sadomasochism, defecation, and worse. Among the most popular pictures are sex acts with a wide variety of animals, nude children, and incest.

I don't think there is any doubt that competition from pornographic digital films, which can be sent from anywhere in the world, will pull Hollywood in the direction of more and more shocking sexual films and television.

Is there a role for government? I think the answer is yes. It may be impossible to do anything about Internet and films on home computers. Technology, it is said, is on the side of anarchy. But it is possible to do something about movies, television, and rap music.

There are those who say the solution is rebuild a stable and decent public culture. How one does that when the institutions we have long relied on to maintain and transmit such a culture—the two-parent family, schools, churches, and popular entertainment itself—are all themselves in decline it is not easy to say.

It is also no answer to say, "If you don't like it, don't go to the offensive movies, use the remote to change the television channel, don't listen to rap." Whether or not you watch and listen, others will, and you and your family will be greatly affected by them. The aesthetic and moral environment in which you and your family live will be coarsened and degraded. Michael Medved put it well: "To say that if you don't like the popular culture to turn it off, is like saying, if you don't like the smog, stop breathing. . . . There are Amish kids in Pennsylvania who know about Madonna."

The cultural smog has several bad effects. I have mentioned the ugliness of the aesthetic and moral environment, which includes everything from the use in public of language that used to be confined to the barracks and was sometimes frowned upon there to attitudes about sexuality which must translate into attitudes about fidelity and preserving marriages.

Stanley Brubaker argues that in a republican form of government, where the people rule, it is crucial that the character of the citizenry not be debased. The late Christopher Lasch pointed out that democracy cannot dispense with virtue. He said that we forget "the degree to which liberal democracy has lived off the borrowed capital of moral and religious traditions antedating the rise of liberalism." Those traditions are dissipated by the kinds of entertainments we have been discussing.

There is, however, a third point. The attitudes and actions expressed in rap lyrics, on Internet, and soon on home computer movies are incitements to action. Do we really think that a heavy diet of pornography, of rape scenes, of coercing children to have sex cannot ever trigger action? If we do not think that, then some form of regulation is called for. The pleasure that a million addicts get from a thousand depictions of rape is not worth one actual rape.

What, then, can government do? This brings us to the topic of censorship. Almost everybody has been so influenced by liberal ideology that censorship is considered unthinkable. Irving Kristol, who also favors censorship, says it might be more palatable if we spoke of the regulation of public morals, but I don't think anybody would be fooled.

Somebody is bound to say that any regulation of pornography would violate the First Amendment. That view is a recent development and ignores the historical understanding. Until very recently, not even pornographers thought the First Amendment was relevant in prosecutions for producing and selling the stuff. They raised no such defense.

As recently as 1942, a unanimous Supreme Court said in Chaplinsky v. New Hampshire: "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem.

These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any explosion of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

That Supreme Court understood that the Amendment intended to protect the expression of ideas and that lewd and obscene were no necessary part of such expression.

We don't have to imagine what censorship would be like. We lived with it for over three hundred years on this continent and for about 175 years as a nation. And we had a far healthier public culture. Ratings systems for recordings and movies have proved a farce. The era of the Hayes office in Hollywood was also the golden age of the motion pictures. And maybe something like the Hayes office would be the way to start. Government could encourage the producers of movies, television, and music to set up such self-policing bodies. We could see if those industries would comply. If not, or if the modern version of Hayes offices proved ineffective, we could contemplate the next step. That next step would be direct government action, which is what we used to have.

One thing seems clear, however, if the depravity of popular culture continues and worsens, we must either attempt one or another form of censorship or resign ourselves to an increasingly ugly and dangerous society.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, October 26, the federal debt stood at $4,973,674,803,905.53. We are still about $27 billion away from the $5 trillion mark, unfortunately, we anticipate hitting this mark sometime later this year or early next year.

On a per capita basis, every man, woman, and child in America owes $18,880.15 as his or her share of that debt.

ORIGINAL COSPONSORS OF THE LIBERTAD ACT

Mr. HELMS. Mr. President, the printed record of the October 11 debate contains an error in the listing of original cosponsors of amendment number 2898 to H.R. 927, the Senate substitute version of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1995. For the information of my colleagues, the original cosponsors of the amendment are as follows: Senators DOLE, HELMS, MACK, COVERDELL, GRAHAM, D'AMATO, HATCH, GRAMM, THURMOND, FAIRCLOTH, GREGG, INHOFE, HOLLINGS, SNOWE, KYL, THOMAS, SMITH, LIEBERMAN, WARNER, NICKLES, ROBB, CRAIG, COHEN, BURNS, REID, LOTT, STEVENS, SPECTER, SHELBY, and PRESSLER.

SENATOR CHARLES GRASSLEY

Mr. THURMOND. Mr. President, Senator GRASSLEY is not only an able and dedicated U.S. Senator, but he is also a progressive, scientific, and outstanding farmer. His colleagues in the Senate hold him in high esteem, not only for these qualities but also for his integrity, courage, and ability. We are proud of him and the great service he is rendering our country.

I ask unanimous consent that the article contained in the Hill be printed in the RECORD so that others will learn more about this fine American.

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

[From the Hill, Oct. 25, 1995]

SENATOR CHARLES GRASSLEY

(By Albert Eisele)

You can't get much more grassroots than Sen. Charles Grassley (R-Iowa).

Early this month, the 62-year-old crusader against federal waste was at the wheel of an International Harvester 1450 tractor, hauling a load of soybeans to a grain elevator near his family farm in northeastern Iowa.

The only working farmer in the Senate, Grassley interrupted his farming chores to issue a press release informing his constituents he had regained his Agriculture Committee seat, which he was forced to give up in January when committee assignments were redistributed after Republicans took control of the Senate.

But last week, Grassley was back in the Senate, behind the closed doors of the Finance Committee helping Republicans work out disagreements over their controversial $245-billion tax cut package, and then defending that package from Democratic criticism in full committee.

"If you're concerned about balancing the budget, you'll be for this program," Grassley declared as he and his GOP colleagues sent their historic tax package to the Senate floor as part of the even more historic budget reconciliation bill.

Then, using a metaphor appropriate to his Iowa origins and his parochial view of his role in the Senate, once described by Congressional Quarterly as "pigs and pork," Grassley said, "The people of this country are tired of living high on the hog, and not worrying about our children or grandchildren paying for it."

For the man who is the philosophical heir of the late Rep. H. R. Gross (R), the quintessential penny-pinching legislator whom Grassley succeeded in the House in 1974, it was a characteristic moment.

Never hailed as an intellectual giant or an inspiring orator, the easy-going third-term senator has made his name, and compiled a truly imposing campaign record, by balancing the needs of Iowa farmers and small businesses with the national yearning for fiscal discipline in government.

Despite one of the lowest profiles in the Senate, Grassley has managed, by stint of sheer hard work, country-bred political smarts and a low-octane ego, to place himself in the middle of the Senate debate over the big ticket issues of tax cuts, budget balancing and welfare reform at the heart of the Republican revolution.

As a member of the Finance Committee, the number two Republican on the Budget Committee behind Chairman Pete Domenici (R-N.M.), and a member of the House-Senate conference committee on welfare reform which holds its first meeting today, Grassley is perfectly positioned to add to his already impressive electoral achievements in Iowa, where he has never lost a race.

Elected to the state legislature while studying for a doctorate at the University of Iowa—he left school after he was elected and never returned—Grassley took over his family farm after his father died in 1960.

By 1974, when he won a narrow victory over a Democratic opponent to replace the retiring Rep. Gross, Grassley had bought additional acreage—It's now just under 600 acres—and turned the farm over to his son Robin, who still farms it, with weekend help from his father in the fall and spring.

Then, in 1980, after Iowa voters dumped liberal Democratic Sen. Dick Clark in favor of conservative Republican Roger Jepson two years earlier, Grassley took on Clark's liberal Democratic colleague, John Culver, after winning 90 of the state's 99 counties in the GOP primary.

His emphasis on pocketbook issues and his earnest demeanor, which belied Culver's charges that he was a tool of the Moral Majority and New Right, earned Grassley an unexpectedly comfortable victory with 54 percent of the vote.

Amazingly, for someone whose name and accomplishments are little-known outside of Iowa, and widely discounted inside the Washington Beltway, Grassley has one of the best records as a campaigner of anyone in the Senate. Of the 43 senators who have run for three or more terms, Grassley is the only one, other than John Warner (R-Va.) and two others who ran unopposed, who has significantly improved his electoral margin in each of the last three elections.

After winning 54 percent of the vote in 1980, he easily disposed of his Democratic challenger in 1986 by taking 66 percent of the vote, and crushed his opponent in 1992, highly touted state Sen. Jean Lloyd-Jones, by winning 70 percent of the vote.

The latter victory was one of historic proportions as he carried every single county while winning by the largest statewide margin in the country, and winning more votes than any candidate in the history of the state—President Eisenhower had the old record.

Grassley has an uncanny ability to translate national issues, such as defense fraud, tax reform, out-of-control government spending, congressional accountability, and international trade—especially for Iowa farm and manufacturing products—into issues of local appeal.

Grassley scored one of his major successes earlier this year when the 104th Congress enacted its first piece of legislation, the Congressional Accountability Act that made Congress subject to the same labor and anti-discrimination laws that apply to all Americans. Grassley has been pushing for such a law since 1989.

But it was his attack on government waste and fraud that first brought him public attention. In 1984, as chairman of the Judiciary Subcommittee on Administrative Practices, he publicized the notorious $47,600 coffee maker bought by the Air Force. Then, in 1990, he won headlines by uncovering Pentagon purchases of $999 screwdrivers and $1,868 toilet seats.

Grassley is proudest of two major achievements, passage of the Congressional Accountability Act and his work with Rep. Howard Berman (D-Calif.) in promoting the 1986 "whistle blower" provisions, known as the "qui tam" amendments to the False Claims Act, which enabled the Justice Department to recover more than $1 billion in civil fraud cases since 1986.

Over breakfast in the Senate Dining Room last week, Grassley, who had a very unIowa-

like breakfast—a grapfruit with honey and black coffee—commented, almost apologetically, on the fact that very little major legislation bears his name.

"Sometimes I think the passage of legislation might not necessarily be the best way to measure a person's most important accomplishments," he said. "Sometimes, it's what you might do to stop a bad administrative action or get an amicus brief before the Supreme Court on child pornography."

Grassley has already signed on-to Senate Majority Leader Bob Dole's (Kan.) presidential bandwagon, so it's no surprise he predicts Dole will win the bellwether Iowa caucuses next February. But he concedes that Dole will have to beat the 38-percent figure he got in 1986.

And for those who want to bet a long shot, the most successful politician in Iowa history offers this startling advice: "Keep an eye on Phil Gramm [R-Texas]. He's the one to watch."

GAMBLING IMPACT STUDY COMMISSION ACT

Mr. WARNER. Mr. President, legalized gambling in this country is growing at a phenomenal rate. In 1975, only one State allowed casino gambling. Today, 20 years later, 23 States have legal casino gambling. Forty-eight States have legal gambling in some form. Gambling is a huge industry, but we know very little about its economic and social impacts.

As a result of my deep concerns, I have become a cosponsor of S. 704, the Gambling Impact Study Commission Act. This bill, sponsored by Senators SIMON and LUGAR, will establish an 18-month commission to study the effects of legalized gambling and its impact on local communities. The commission would report its findings to the President and Congress, providing administrative recommendations and proposals for legislation, if called for.

Mr. President, I am a strong believer in the free market and I believe the Federal Government's zeal to regulate business in this country must be reined in. The American people sent a clear signal with the 1994 elections. That is why many of us in Congress are working overtime to cut Government red tape that is stifling our businesses and industry.

But this national gambling commission is not about Government interference. As I mentioned, 48 States have some form of legalized gambling, including 23 with operating casinos. There is even gambling on the Internet. I am not opposed to State lotteries but I note that today, gambling is done on river boats, Indian reservations, and in well-established downtowns. There are even proposals to put video gambling machines on airlines and to have gambling cars on passenger trains.

According to a study by U.S. News & World Report, Americans in 1992 legally wagered $330 billion in casinos, race tracks, lotteries, et cetera. This represents an 1,800-percent increase since 1976. Mr. President, I believe Congress must recognize that legalized gambling is now a huge industry, and we must take steps to learn about this industry and to provide credible and objective facts for our States and communities.

Many towns and cities are in tight budgetary situations and are looking for new dollars without increasing local taxes. Legalized gambling has been seen by some as a panacea, not just as a means to avoid tax increases, but as a means to provide new jobs and stimulate economic growth.

Frankly, Mr. President, there is very little unbiased information about gambling's true economic and social impact in America. The gaming industry has produced its studies, which predictably paint a rosy picture for States and local governments. The opponents of gambling have likewise produced reports about the problems legalized casinos and other forms of gambling have brought to communities. We do not know who to believe.

In short, there is a real lack of unbiased information. An independent national gambling commission, as I envision it, will be fair-minded and provide information across a wide spectrum. It will examine the social impacts of gambling, including the impact on crime rates, political corruption, and family life. It will also examine its economic costs and benefits.

From the work of this commission, Congress will learn a great deal about this relatively unknown industry. Moreover, Virginia and her counterparts, and just as importantly local communities, will be able to use this information while making future decisions about creating or expanding legalized gambling.

I look forward to Senate consideration of this bill, and will work to ensure its passage.

IN HONOR OF HENRY WINKLER'S 50TH BIRTHDAY

Mr. PRESSLER. Mr. President, as a long-standing member and now Chairman of the Commerce, Science and Transportation Committee, I have been an outspoken critic of movie and television programs that have a negative impact on our children. However, I do make a point to single out those who make a positive contribution to quality programming. Today I want not only to pay tribute to an individual who has worked diligently to create programs that uplift and instruct our children, but also to extend congratulatory birthday greetings. Henry Winkler, an individual who already has established a milestone in television history, will celebrate another milestone on October 30, when he turns a golden fifty years of age.

All of us know Henry Winkler as the "Fonz" on the long running TV show "Happy Days." His famous motorcycle jacket is a permanent piece of the Smithsonian Institute's collection. As an actor, Mr. Winkler created a national icon. Today, he has established himself as one of Hollywood's most respected producers of family-oriented entertainment, and has drawn attention to humanitarian and family causes. In the 1970s, he won the prestigious Humanitas Award for his program "Who Are the DeBolts?", a documentary on a family with nineteen children, many of them adopted with special needs. In the 1980s, Henry brought back the "Fonz" to host the video "Strong Kids, Safe Kids," a widely distributed cassette that addressed child abuse. His production company, "JZM"—the initials derived from each first name of his three children—produced children's specials addressing a variety of important issues such as divorce and teenage drunk driving. Families also have enjoyed the exploits of "MacGyver," the story of an action hero who solved crimes with creativity and scientific knowledge, rather than guns or brute violence. Henry also continues to act, portraying characters who invariably learn or teach a heartwarming lesson, including last year's "Truman Capote's One Christmas," in which Henry co-starred with the legendary Katherine Hepburn. As both actor and producer, Henry has proven that good, clean programming can be entertaining, and as the "Fonz" would say, cool.

Henry Winkler's devotion and commitment to quality programming stems from clear fact: Henry Winkler is a quality human being. He has applied this same energy to the welfare of all children. He is a founding member of the Children's Action Network, dedicated to raising the profile of children's issues through the media. He has been national chairman of the annual Toys for Tots campaign, honorary chairman of the Epilepsy Foundation of America, the Special Olympics, and numerous teenage alcohol and drug abuse programs.

In recognition of his many humanitarian efforts, Henry Winkler has been honored by the United Nations, B'nai B'rith, Women in Film, and Cedars-Sinai Medical Center. Also honored by Hollywood, Mr. Winkler has his own star on the "Walk of Stars." In both his personal and professional life, Henry Winkler set a positive and highly respected standard for the entertainment industry. My wife, Harriett, and I join Henry's family and friends in wishing him a very happy birthday, good health and best wishes for another half-century of continued success.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, 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. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 109. Concurrent resolution expressing the sense of the Congress regarding the need for raising the social security earnings limit.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104-165).

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. LIEBERMAN:

S. 1367. A bill to amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Res. 188. A bill to designate October 30, 1995, as "National Drug Awareness Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 1367. A bill to amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FARM FAIRNESS ACT OF 1995

• Mr. LIEBERMAN. Mr. President, the commitment we have made to balancing the budget has forced each of us to reassess a wide variety of Federal programs. We are asking tough but necessary questions about welfare, Medicare, funding for the arts, and so forth, all with an eye toward determining whether we are truly doing right by the taxpayer, and whether we can afford to continue the status quo.

One corner of the budget that I believe deserves this kind of heightened scrutiny is the U.S. Department of Agriculture's farm subsidy programs. Each year about $10 billion gets plowed into price and income supports for commodities, in the name of helping the struggling family farmer. But there's substantial evidence to show that these programs are not serving the interests of those small farmers, nor are they doing justice to America's taxpayers.

The current system for distributing commodity payments is too complicated, plagued by too many loopholes, and permits far too many tax dollars to flow to wealthy landowners, passive investors, and others who the programs are not designed to serve. Perhaps worst of all, the system in place today actually encourages farmers to try to circumvent the laws governing who is eligible for program payments and the limits on how much they can receive. The resulting waste and abuse is not fair to the taxpayer, nor is it fair to the overwhelming majority of hard-working farmers who are obeying the spirit as well as the letter of the law.

That is why I rise today to introduce the Farm Fairness Act of 1995, a plan to dramatically reform the payment limit and eligibility laws, and restore some basic fairness to the way subsidies are distributed. This legislation would go a long way toward rooting out the waste and abuse in the commodity programs while strengthening our commitment to the family farmer these programs are meant to support. What's more, it would save hundreds of millions of dollars each year, which would enable us to significantly reduce the cuts in the commodity programs we are asking the small- and medium-sized farmer to absorb over the next budget cycle.

Mr. President, the need for the kind of changes I am proposing has been well established by the USDA inspector general. Over the last few years, the IG's office has produced dozens of investigative reports documenting widespread attempts to cash in on loopholes in the law. These plans invariably involve the creation of shell corporations set up for the sole purpose of getting around the $50,000 cap on payments that was set by Congress. These efforts have been effective, too: in 1993, nearly 10,000 farms received payments above the $50,000 limit.

The law is so full of loopholes that these excessive payments are technically legal, even though they make a mockery of the $50,000 cap. In fact, a U.S. Attorney's Office recently declined to prosecute a substantial fraud case against a big farming group because, in the judgment of the U.S. Attorney, the law seemed to sanction the group's deceptive behavior. "[T]he program rules are not simply complex, but actually invite the creation of complicated entities, and numerous federal payments, that arguably do not correspond to a common sense notion of farming," the U.S. Attorney wrote.

Perhaps the most notorious case of abuse is that of landowner profiled a few years ago on "60 Minutes," whose family exploited several loopholes in the eligibility laws to receive almost $3 million in USDA money over a 2 year period. He did it by creating an ornate ownership structure that looked like a Christmas tree, but this tree was trimmed with phony partners: among them were three churches and a local boy scout council that the landowner used to maximize his payments.

Like this landowner, many farmers are enticed by these loopholes to concentrate more on farming the government than farming their land. This trend of farming the government is so pervasive that one former Agriculture Secretary called it "the principal problem" in the farming community today.

As a result of these flaws in the law, you don't have to be a farmer to receive farm subsidies. In fact, a recent study showed that at least $2 billion in crop payments have been made to individuals living in America's 50 biggest cities over the last decade. We cannot think of any justification for crop subsidies going to Manhattan, Greenwich, and Beverly Hills.

More farm subsidies are going to nonfarming locales than any taxpayer would ever guess. That's because, in spite of the rhetoric about the family farmer, these programs are disproportionately benefiting wealthy landowners and off-farm investors: The richest 4 percent of program participants receive more than 40 percent of all payments.

If we are to justify a continued investment in the commodity programs, I believe there must be some fundamental reforms. The legislation I am introducing today would do just that. It is designed to restore some common sense to the administration of these programs, to remove the incentives for farming the government, and ultimately to better target the subsidies to those who were meant to receive them.

Among other things, this proposal would: Close the loopholes that allow huge sums of farm subsidies to flow to nonfarmers; eliminate the shell corporations the current rules encourage

farmers to create; set tough penalties for cheating the Government to add a real deterrent for engaging in fraudulent behavior; bring some simplicity into a system that is nearly unintelligible to anyone but a well-trained lawyer; and reduce the budget in a way that minimizes the pain for the small family farmer who is playing by the rules.

The Congressional Budget Office estimates that the Farm Fairness Act would save approximately $1.8 billion over the next 7 years. I believe that is a conservative estimate, and that if the reforms I am proposing are properly enforced, this legislation would reduce commodity payments anywhere from $2 billion to $3 billion over 7 years. That amounts to a significant chunk of the $13.4 billion in commodity program cuts called for in the budget reconciliation package we are in the process of considering.

Without a proposal like this, those cuts will be made across the board, meaning the small wheat farmer in Fargo will suffer as much as the passive investor in Key Largo. To prevent that from happening, I intend to offer a version of the Farm Fairness Act as an amendment to the budget reconciliation bill this week.

This proposal is called the Farm Fairness Act because it will restore some fairness to the way we support farmers, by targeting payments to the people who are actually plowing the fields and harvesting the crops. And it will make sure that taxpayers finally get a fair return for the tax dollars we spend on the commodity programs. It is a balanced measure, one that Members from both farm and nonfarm States can support, and I would urge my colleagues to do so.

Mr. President, I ask unanimous consent that the full text of this legislation be included in the RECORD, along with a section-by-section summary that I have prepared explaining the contents of the bill.

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

S. 1367

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 "Farm Fairness Act of 1995".

SEC. 2. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (3) and inserting the following:

"(1)(A) Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of payments specified in subparagraph (B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds may not exceed $35,000.

"(B) In subparagraph (A), the term 'payments' means—

"(i) deficiency payments;

"(ii) land diversion payments;

"(iii) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment or public access for recreation;

"(iv) any gain realized by a producer from repaying a loan for a crop of any commodity (other than honey) at a lower level than the original loan level established under the Agricultural Act of 1949;

"(v) any deficiency payment received for a crop of wheat or feed grains under the Agricultural Act of 1949 as the result of a reduction of the loan level for the crop under the Act;

"(vi) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, rice, or oilseeds under the Agricultural Act of 1949; and

"(vii) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under the Agricultural Act of 1949.

"(2) In applying the limitation specified in paragraph (1)(A) to payments specified in paragraph (1)(B):

"(A) The Secretary shall attribute the payments directly to persons who receive the payments.

"(B) In the case of payments that are received by an entity, the Secretary shall attribute the payments to individuals who own the entity in proportion to the ownership interest of the individuals in the entity.".

SEC. 3. DEFINITION OF PERSON.

Section 1001(5)(B)(i)(II) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(B)(i)(II)) is amended by inserting "general partnership, joint venture," after "limited partnership,".

SEC. 4. REMOVAL OF 3-ENTITY RULE.

Subsection (a) of section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended to read as follows:

"(a) PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.—The Secretary shall attribute payments specified in section 1001(1)(B) to persons in accordance with section 1001(2).".

SEC. 5. ACTIVELY ENGAGED IN FARMING.

(a) PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT.—

(1) INDIVIDUALS.—Section 1001A(b)(2)(A)(i) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(2)(A)(i)) is amended by striking subclause (II) and inserting the following:

"(II) personal labor and active personal management;".

(2) CORPORATIONS OR OTHER ENTITIES.—Section 1001A(b)(2)(B) of the Act is amended to read as follows:

"(B) CORPORATIONS OR OTHER ENTITIES.—

"(i) SIGNIFICANT CONTRIBUTION.—A corporation or other entity shall be considered as actively engaged in farming with respect to a farming operation if—

"(I) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(II) stockholders or members who individually or collectively own at least a 50 percent interest in the operation make a significant contribution of personal labor and active personal management to the operation; and

"(III) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the entity, are met by the entity.

"(ii) NO SIGNIFICANT CONTRIBUTION.—Notwithstanding clause (i), if the stockholders or members who are not described in clause (i)(II) do not individually or collectively make a significant contribution of personal labor or active personal management to the operation, the payments to the entity shall be reduced by a percentage equal to the percentage ownership in the entity of the members.

"(iii) TRANSITION RULE.—A family farm corporation shall meet the requirements of clause (i)(II) during the 10-year period beginning on October 1, 1996, if—

"(I) the corporation met the requirements of this subparagraph (as in effect prior to the amendment made by section 5(a)(2) of the Farm Fairness Act of 1995) during at least the 5-year period ending on the date of enactment of the Act;

"(II) the corporation ceases as a result of the death, disability, or retirement of a stockholder or member of the corporation to meet the requirements of clause (i)(II); and

"(III) stockholders or members who individually or collectively own at least a 10 percent interest in the operation make a significant contribution of personal labor and active personal management to the operation.".

(3) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—Section 1001A(b)(2) of the Act is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C).

(4) FAMILY MEMBERS.—The first sentence of section 1001A(b)(3)(B) of the Act is amended by striking "active personal management or personal labor" and inserting "active personal management and personal labor".

(b) LANDOWNERS.—Section 1001A(b)(3)(A) of the Act is amended to read as follows:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation, if the person demonstrates to the satisfaction of the Secretary that the person—

"(i) receives rent for the use of the land based on the production of the land or the operating results of the operation;

"(ii) rents the land only to persons who are considered actively engaged in farming under this section; and

"(iii) meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).".

(c) DEFINITIONS.—Section 1001A(b) of the Act is amended by adding at the end the following:

"(7) DEFINITIONS.—In this subsection and section 1001(5)(D) (7 U.S.C. 1308(5)(D)):

"(A) ACTIVE PERSONAL MANAGEMENT.—The term 'active personal management' means personally providing, on a daily basis as required during the entire growing season for a crop—

"(i) direct supervision and direction of activities and labor involved in a farming operation; or

"(ii) on-site services that are directly related and necessary to a farming operation.

"(B) CAPITAL.—The term 'capital' does not include any payment described in paragraph (1) or (2) of section 1001 (7 U.S.C. 1308). The Secretary shall establish procedures to ensure that the term is applied in a manner that does not include any such payment.

"(C) SIGNIFICANT CONTRIBUTION.—The term 'significant contribution' means—

"(i) in the case of land, capital, or equipment contributed by a person to an operation, a percentage of the land, capital, or equipment, respectively, to the operation that is at least equal to the percentage interest of the person in the operation; and

"(ii) in the case of personal labor and personal active management contributed by a

person to an operation, at least 1,000 hours annually or 50 percent of the commensurate share, whichever is less.".

(d) CONFORMING AMENDMENTS.—Section 1001(5) of the Act (7 U.S.C. 1308(5)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraph (E) as subparagraph (D).

SEC. 6. SCHEMES OR DEVICES.

Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking "applicable to" and all that follows through "succeeding crop year" and inserting "applicable to—

"(1) the crop year for which the scheme or device was adopted and the succeeding 5 crop years; and

"(2) if fraud was committed in connection with a scheme or device involving a price support, production adjustment, or conservation program administered by the Secretary of Agriculture, the crop year for which the scheme or device was adopted and the succeeding 10 crop years".

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1996.

THE FARM FAIRNESS ACT OF 1995—SECTION-BY-SECTION SUMMARY

SECTION 1

[Bill title.]

SECTION 2

Payment limits: This section would set a new, single payment limit of $35,000 for any individual, corporation or any other legal "entity" seeking to enroll in the USDA's main crop subsidy programs. This limit would apply to all commodity payments, but it would not include the various conservation programs.

Under current law, there is a confusing multi-tier system of various payment limits. An individual or corporation can receive up to $50,000 in deficiency payments; up to $75,000 in several other price support payments (marketing loan gains, loan deficiency payments, and the sporadically-used "Findlay" payments); and up to a total of $250,000 for all payments.

In light of the fact that fewer than 2% of all program participants receive more than $40,000 in deficiency payments, creating a single $35,000 cap seems a reasonable step that would impact very few families while producing significant budget savings.

Direct attribution: One of the biggest problems with the current system of payment limits is that it has established different limit levels depending on how the farming operation is structured. This makes it relatively easy for large producers to receive payments several times the current $50,000 and $75,000 limits.

This section would solve that problem by requiring the attribution of all crop subsidy payments directly to individuals, via social security numbers. For corporations, payments would still be distributed to the legal entity, but it would be attributed to the individual shareholders based on their respective interests in the corporation.

SECTION 3

This section would close a widely-exploited loophole in the existing rules by adding general partnerships and joint ventures to the list of business organizations that are subject to the payment limitations.

Under current law, general partnerships and joint ventures are not listed under the definition of legal "persons" and are thus exempt from the payment limitations. This exemption gives farming operations a heavy incentive to structure their businesses under the aegis of a general partnership: the more "entities" included in the partnership, the more payments the operation can receive.

SECTION 4

This section would repeal the most flagrantly-abused provision in the payment limit laws: the "Three-Entity Rule."

This rule was passed by Congress in 1987 purportedly to limit the number of sources from which a farmer could receive payments. In reality, though, it has mostly been an invitation for farmers to structure their operations in such a way as to maximize payments.

This section would allow farmers to receive payments from any number of sources. But because of the strict $35,000 limit we establish, and the direct attribution system, there will be few remaining incentives for farmers to form multiple corporations and "shell" entities that exist only on paper.

SECTION 5

For any payment limitation reforms to work, the loopholes in the rules defining who is "actively engaged in farming" need to be tightened. Otherwise, significant dollars will continue to flow to off-farm investors, and big operations will continue to flout the payment limits.

This section contains several sensible changes in the eligibility rules. Among others, it would:

Require any individual or majority shareholder(s) in a corporation to make a significant contribution of "active personal management" and "active personal labor." Current rules require only one or the other.

Require minority shareholders to contribute at least "active management" or "active labor" on the farm. Current rules allow too many passive stockholders to receive payments just by making a contribution of capital, land or equipment, i.e., money. If a minority shareholder does not meet this threshold, the corporation's payments will be reduced in proportion to that shareholders stake in the venture.

Redefine "active personal management" to demand a regular and consistent presence on the farm during the growing season, to guarantee that payees are closely involved in the day-to-day operations of the farming venture. The current definition is exceedingly vague, requiring only that the contribution be "critical to the farm's profitability."

Toughen the requirements on landowners. Under current law, landowners are essentially exempt from the labor and management contribution requirements, as long as they are engaged in a true share-lease arrangement with a tenant. This provision would require that the tenant actually be "actively engaged" for the landowner to qualify for payments.

Lastly, this section would expressly prohibit individuals or shareholders from using their subsidy payments to account for their required capital contribution. Under current rules, farmers can apply their advanced deficiency payments toward their capital contribution, which undercuts the legal requirement that a recipient be at risk.

SECTION 6

This section would increase the penalties for engaging in a "scheme or device"—creating bogus corporations, etc.—and defrauding the government.

Under current law, any individual or entity found by the USDA to be engaged in a scheme or device is prohibited from receiving payments for the rest of that crop year as well as the next crop year. This provision would ban payments for the succeeding five crop years. In addition, any individual or entity participating in commodity programs that is convicted of defrauding the government would be banned from receiving payments for the next 10 years. (There is currently no additional punishment for persons convicted of fraud.)

These steps are designed to create a real deterrent against attempts to milk the system and deceive the government. The existing penalties are clearly not having any impact.

SECTION 7

This section would establish the effective date of these changes as October 1, 1996.●

ADDITIONAL COSPONSORS

S. 545

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 545, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1136

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1136, a bill to control and prevent commercial counterfeiting, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1326

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1326, a bill respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1360

At the request of Mr. BENNETT, the name of the Senator from Wyoming

[Mr. SIMPSON] was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health-care-related information, and for other purposes.

AMENDMENT NO. 2942

At the request of Mr. BYRD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nevada [Mr. REID], the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mrs. MURRAY], the Senator from Montana [Mr. BAUCUS], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Mr. SARBANES], the Senator from Maryland (Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KOHL], the Senator from Kentucky [Mr. FORD], the Senator from North Dakota [Mr. CONRAD], the Senator from Georgia [Mr. NUNN], and the Senator from California [Mrs. BOXER] were added as cosponsors of Amendment No. 2942 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

AMENDMENT NO. 2974

At the request of Mr. BYRD, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Illinois [Mr. SIMON], the Senator from North Dakota [Mr. DORGAN], the Senator from Virginia [Mr. ROBB], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Amendment No. 2974 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE RESOLUTION 188—NATIONAL DRUG AWARENESS DAY

Mr GRASSLEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 188

Whereas illegal drug use among the youth of America is on the increase;

Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars;

Whereas illegal drug use contributes to crime on the streets and in the homes of this nation;

Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased;

Whereas public awareness and sustained programs are essential to combat an on-gong social problem;

Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free and to encourage personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drugs use: Now, therefore, be it

Resolved, That the Senate designate October 30, 1995, as "National Drug Awareness Day".

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

SPECTER AMENDMENT NO. 2985

Mr. SPECTER proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 539, line 16, strike all that follows through page 541, line 9.

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate and limited deductions for home mortgage interest and charitable contributions.

GRASSLEY AMENDMENT NO. 2987

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

Before "; and" at the end of sec. 2111 (a)(1)(D), insert the following: "; however, the payment of burial and/or funeral expenses of the individual shall be subject to 42 U.S.C. §§1382b(a)(2)(B) and 1382b(d)".

BAUCUS (AND OTHERS) AMENDMENT NO. 2988

Mr. BAUCUS (for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1357, supra, as follows:

On page 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2989

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of title XII, add the following new subtitle:

Subtitle K—Enhanced Enterprise Zones

SEC. 12971. SHORT TITLE.

This subtitle may be cited as the "Enhanced Enterprise Zones Act of 1995".

SEC. 12972. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness.

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers.

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment.

(4) The provisions creating empowerment zones that were enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation,

job creation, educational opportunities, and homeownership in designated enterprise communities and empowerment zones.

(b) PURPOSE.—The purpose of this subtitle is to increase job creation, small business expansion and formation, educational opportunities, and homeownership in economically depressed areas by providing Federal tax incentives, regulatory reforms, school reform pilot projects, and homeownership incentives.

CHAPTER 1—FEDERAL TAX INCENTIVES

SEC. 12973. AMENDMENTS TO SUBCHAPTER U.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas) is amended—

(1) by redesignating part IV as part V,

(2) by redesignating section 1397D as section 1397F, and

(3) by inserting after part III the following new part:

"PART IV—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1397D. Empowerment zone and enterprise community capital gain.

"Sec. 1397E. Empowerment zone and enterprise community stock.

"SEC. 1397D. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) any qualified zone stock,

"(B) any qualified zone business property, and

"(C) any qualified zone partnership interest.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397E ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397E.

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone or enterprise community took effect,

"(ii) the original use of such property in the empowerment zone or enterprise community commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in an enterprise zone business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(I) property which is substantially improved by the taxpayer, and

"(II) any land on which such property is located.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone or enterprise community took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

"(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

"(II) $5,000.

"(C) LIMITATION ON LAND.—The term 'qualified zone business property' shall not include land which is not an integral part of an enterprise zone business.

"(4) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of all prior holders.

"(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

"(4) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given such term by section 1394(b)(3), except that, in applying section 1394(b)(3), the term 'qualified business' shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

"(d) TREATMENT OF PASS-THRU ENTITIES.—

"(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(C) shall apply for purposes of the preceding sentence.

"(2) INCOME INCLUSIONS.—

"(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

"(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

"(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(b) except that references to empowerment zones shall be treated as including references to enterprise communities), and

"(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

"(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such asset in the same manner as the transferor, and

"(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"SEC. 1397E. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed—

"(i) $100,000 for any taxable year, and

"(ii) when added to the aggregate amount allowed as a deduction under this section in all prior years, $500,000.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under—

"(i) subparagraph (A)(i), the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) subparagraph (A), the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(2) RELATED PERSON.—The taxpayer and members of the taxpayer's family shall be treated as one person for purposes of paragraph (1) and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock. For purposes of this paragraph, an individual's family includes only such individual's spouse and minor children.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an empowerment zone or enterprise community occurs, expires, or is revoked pursuant to section 1391 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—Such term shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified enterprise zone property.

"(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 168 applies (or would apply but for section 179)—

"(i) the original use of which commences in an empowerment zone or enterprise community with the issuer, and

"(ii) substantially all of the use of which is in such empowerment zone or enterprise community.

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is a corporation described in section 1397B(b) (except that in applying such section the references to empowerment zones shall be treated as including references to enterprise communities) or, in the case of a new corporation, such corporation is being organized for purposes of being such a corporation,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $50,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of such disposition by the taxpayer, and

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the

taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community, as the case may be.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section."

(b) ADDITIONAL EXPENSING.—Section 1397A (relating to increase in expensing under section 179) is amended—

(1) in subparagraph (A) of subsection (a)(1), by striking "$20,000" and inserting "$35,000", and

(2) by adding at the end the following new subsection:

"(c) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term 'enterprise zone business' has the meaning given such term by section 1397B, except that in applying such section references to empowerment zones shall be treated as including references to enterprise communities."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and"; and by adding at the end the following new paragraph:

"(26) to the extent provided in section 1397E(b), in the case of stock with respect to which a deduction was allowed or allowable under section 1397E(a)."

(d) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter U is amended by striking the item relating to part IV and inserting the following new items:

"Part IV. Additional incentives for empowerment zones and enterprise communities.

"Part V. Regulations."

(2) The table of sections for part V of subchapter U of chapter 1, as redesignated by subsection (a)(1), is amended by redesignating the item relating to section 1397D as section 1397F.

(3) Section 1397F, as so redesignated, is amended by striking "and III" each place it appears and inserting ", III, and IV".

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1995.

SEC. 12974. COMMERCIAL REVITALIZATION TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) 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 at the end the following new paragraph:

"(4) the commercial revitalization credit."

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, except as provided in subsection (e), the commercial revitalization credit for any taxable year is an amount equal to the applicable percentage of the qualified revitalization expenditures with respect to any qualified revitalization building.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means—

"(A) 20 percent, or

"(B) at the election of the taxpayer, 5 percent for each taxable year in the credit period.

The election under subparagraph (B), once made, shall be irrevocable.

"(2) CREDIT PERIOD.—

"(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service.

"(B) APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) and (4) of section 42(f) shall apply.

"(c) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

"(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) such building is located in an eligible commercial revitalization area,

"(B) a commercial revitalization credit amount is allocated to the building under subsection (e), and

"(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

"(2) QUALIFIED REHABILITATION EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property, or

"(II) an addition or improvement to property described in subclause (I),

"(ii) in connection with the construction or substantial rehabilitation or reconstruction of a qualified revitalization building, and

"(iii) for the acquisition of land in connection with the qualified revitalization building.

"(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed $10,000,000, reduced by any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the credit under this section for all preceding taxable years.

"(C) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified revitalization expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure (other than with respect to land acquisitions) with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) ACQUISITION COSTS.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

"(iii) OTHER CREDITS.—Any expenditure which the taxpayer may take into account in computing any other credit allowable under this part unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(3) ELIGIBLE COMMERCIAL REVITALIZATION AREA.—The term 'eligible commercial revitalization area' means an empowerment zone or enterprise community designated under subchapter U.

"(4) SUBSTANTIAL REHABILITATION OR RECONSTRUCTION.—For purposes of this subsection, a rehabilitation or reconstruction shall be treated as a substantial rehabilitation or reconstruction only if the qualified revitalization expenditures in connection with the rehabilitation or reconstruction exceed 25 percent of the fair market value of the building (and its structural components) immediately before the rehabilitation or reconstruction.

"(d) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified rehabilitated building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation or reconstruction of a building shall be treated as a separate building.

"(2) PROGRESS EXPENDITURE PAYMENTS.—Rules similar to the rules of subsections (b)(2) and (d) of section 47 shall apply for purposes of this section.

"(e) LIMITATION ON AGGREGATE CREDITS ALLOWABLE WITH RESPECT TO BUILDINGS LOCATED IN A STATE.—

"(1) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization credit amount (in the case of an amount determined under subsection (b)(1)(B), the present value of such amount as determined under the rules of section 42(b)(2)(C)) allocated to such building under this subsection by the commercial revitalization credit agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(2) COMMERCIAL REVITALIZATION CREDIT AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate commercial revitalization credit amount which a commercial revitalization credit agency may allocate for any calendar year is the amount of the State commercial revitalization credit ceiling determined under this paragraph for such calendar year for such agency.

"(B) STATE COMMERCIAL REVITALIZATION CREDIT CEILING.—

"(i) IN GENERAL.—The State commercial revitalization credit ceiling applicable to any State for any calendar year is $2,000,000 for each empowerment zone and enterprise community in the State designated under subchapter U.

"(ii) SPECIAL RULE WHERE ZONE OR COMMUNITY LOCATED IN MORE THAN 1 STATE.—If an empowerment zone or enterprise community is located in more than 1 State, a State's share of the amount specified in clause (i) with respect to such zone or community shall be an amount that bears the same ratio to $2,000,000 as the population in the State

bears to the population in all States in which such zone or community is located.

"(iii) OTHER SPECIAL RULES.—Rules similar to the rules of subparagraphs (D), (E), (F), and (G) of section 42(h)(3) shall apply for purposes of this subsection.

"(C) COMMERCIAL REVITALIZATION CREDIT AGENCY.—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

"(f) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization credit dollar amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization credit agency which are appropriate to local conditions,

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for an eligible commercial revitalization area through a citizen participation process,

"(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

"(iii) the active involvement of residents and nonprofit groups within the eligible commercial revitalization area, and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring for compliance with this section.

"(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2000."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 48A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to any commercial revitalization credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A."

(2) Subparagraph (B) of section 48(a)(2) is amended by inserting "or commercial revitalization" after "rehabilitation" each place it appears in the text and heading thereof.

(3) 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 basis of any qualified revitalization building attributable to qualified revitalization expenditures."

(4) Paragraph (2) of section 50(a) is amended by inserting "or 48A(d)(2)" after "section 47(d)" each place it appears.

(5) Subparagraph (B) of section 50(a)(2) is amended by adding at the end the following new sentence: "A similar rule shall apply for purposes of section 48A."

(6) Paragraph (2) of section 50(b) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified revitalization building to the extent of the portion of the basis which is attributable to qualified revitalization expenditures."

(7) Subparagraph (C) of section 50(b)(4) is amended by inserting "or commercial revitalization" after "rehabilitated" each place it appears in the text or heading thereof.

(8) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting "or section 48A" after "section 42"; and

(B) by striking "CREDIT" in the heading and inserting "AND COMMERCIAL REVITALIZATION CREDITS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1995.

CHAPTER 2—REGULATORY FLEXIBILITY

SEC. 12975. DEFINITION OF SMALL ENTITIES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES FOR ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by striking paragraph (6) and inserting the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section; and

"(B)(i) any enterprise zone business (as defined by section 1394(b)(3) of the Internal Revenue Code of 1986);

"(ii) any unit of government that nominated an area which the appropriate Secretary designates as an empowerment zone or enterprise community (within the meaning of section 1391 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone or community; and

"(iii) any not-for-profit enterprise carrying out a significant portion of its activities within such a zone or community.

For purposes of subparagraph (B)(ii), the term 'appropriate Secretary' has the meaning given such term by section 1393(a)(1) of the Internal Revenue Code of 1986."

SEC. 12976. WAIVER OR MODIFICATION OF AGENCY RULES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding after section 612 the following new section:

"§ 613. Waiver or modification of agency rules in empowerment zones and enterprise communities

"(a) Upon the written request of any government which nominated an area that the appropriate Secretary has designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone or community, to waive or modify all or part of any rule which such agency has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone or community.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community. If such a request is made to any agency other than the Department of Housing and Urban Development or the Department of Agriculture, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development or to the Secretary of Agriculture, whichever is appropriate, at the time the request is made.

"(d) Any petition for a modification or waiver shall—

"(i) identify the requirements for which the modification or waiver is sought;

"(ii) identify the existing or proposed business or type of business to which the modification or waiver would pertain;

"(iii) demonstrate that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve;

"(iv) demonstrate the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the empowerment zone or enterprise community against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change; and

"(v) demonstrate that the waiver or modification is necessary because the existing rule impedes the implementation of an existing or proposed business or type of business that furthers job creation, community development, or economic revitalization.

"(e) The agency may approve, in its discretion, a petition upon determining that the petition meets the above-stated criteria. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety or of environmental pollution.

"(f) A modified rule shall be enforceable as if it were the issuance of an amendment to the rule being modified or waived.

"(g) If a request is disapproved, the agency shall inform all the requesting governments, and the appropriate Secretary (as defined in section 1393(a)(1) of the Internal Revenue Code of 1986), in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(h) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize

or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petitions, the agency shall provide public notice and opportunity to comment. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of the applicability of such waiver or modification, consistent with the Administrative Procedure Act requirements.

"(i) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(j) No waiver or modification of a rule under this section shall remain in effect with respect to an empowerment zone or enterprise community after the zone or community designation has expired or has been revoked.

"(k) For purposes of this section, the term 'rule' means—

"(1) any rule as defined in section 551(4) of this title, or

"(2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) CLERICAL AMENDMENT.—The analysis for chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 612, the following new item:

"613. Waiver or modification of agency rules in empowerment zones and enterprise communities."

(c) CONFORMING AMENDMENTS.—

(1) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 613)" before "means".

(2) Section 612 of such title 5 is amended—

(A) in subsection (a), by inserting "(except section 613)" after "chapter"; and

(B) in subsection (b), by inserting "as defined in section 601(2)" before the period at the end of the first sentence.

CHAPTER 3—RESIDENT MANAGEMENT AND HOMEOWNERSHIP INCENTIVES

SEC. 12977. ENTERPRISE ZONE OPPORTUNITY GRANTS.

(a) IN GENERAL.—Section 186 of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a) is amended by striking the section designation and the section heading and inserting the following:

"SEC. 186. ENTERPRISE ZONE GRANTS."

(b) STATEMENT OF PURPOSE.—Section 186(a) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3)—

(A) by striking "federally approved and equivalent State-approved"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to encourage the development of resident management corporations and resident councils in enterprise zones."

(c) DEFINITIONS.—Section 186(b) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(b)) is amended by adding at the end the following new paragraphs:

"(7) ENTERPRISE ZONE.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

"(8) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' has the same meaning as in section 24(h) of the United States Housing Act of 1937."

(d) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—Section 186(c)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—In carrying out this section, the Secretary may make grants to nonprofit organizations—

"(A) to carry out enterprise zone homeownership opportunity programs to promote homeownership in enterprise zones in accordance with this section; and

"(B) to promote the development of resident management corporations in enterprise zones."

(e) ELIGIBLE USES OF ASSISTANCE.—Section 186(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(d)) is amended—

(1) in paragraph (1)—

(A) by striking "assistance to provide" and inserting the following: "assistance to—

"(A) provide";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) to promote the development of resident management corporations in enterprise zones."; and

(2) in paragraph (2), by striking "under this subsection" and inserting "under paragraph (1)(A)".

(f) PROGRAM REQUIREMENTS.—Section 186(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(e)) is amended—

(1) in paragraph (2), by striking "under this section" and inserting "under subsection (d)(1)(A)"; and

(2) in paragraph (3), by striking "federally approved or State-approved".

(g) TERMS AND CONDITIONS OF ASSISTANCE.—Section 186(f)(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(f)(2)) is amended by striking "under this section" and inserting "under subsection (c)(1)(A)".

(h) PROGRAM SELECTION CRITERIA.—Section 186(g)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(g)(1)) is amended by striking "under this section" and inserting "under subsection (d)(1)(A)".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 186(i) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(i)) is amended to read as follows:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $100,000,000 for fiscal year 1997; and

"(2) such sums as may be necessary for each of fiscal years 1998, 1999, and 2000."

CHAPTER 4—MODIFICATION OF CPI CALCULATION

SEC. 12978. MODIFICATION OF CPI CALCULATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to calculations made after December 31, 1995, the Bureau of Labor Statistics of the Department of Labor shall reduce the annual percentage change in the Consumer Price Indexes, as determined without regard to this section, by .05 percentage point.

(b) EXCEPTION.—The reduction described in subsection (a) shall not apply for purposes of calculating the cost-of-living increases under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SIMON (AND OTHERS) AMENDMENT NO. 2990

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. Stevens, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

BAUCUS AMENDMENT NO. 2991

Mr. BAUCUS proposed an amendment to the bill S. 1357, supra as follows:

On page 1469, strike lines 8 through 11, and insert the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

"Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500.

On page 1470, line 7, strike "$110,000" and insert "$90,000".

On page 1470, line 9, strike "$75,000" and insert "$55,000".

On page 1470, line 11, strike "$55,000" and insert "$45,000".

On page 1472, strike the table between lines 10 and 11, and insert the following:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400
2004	9,850
2005 and thereafter	10,800."

On page 1530, strike lines 2 through 5, and insert the following:

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. ——.

offered on October ——, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

REID (AND OTHERS) AMENDMENT NO. 2992

Mr. EXON (for Mr. REID for himself, Mr. BRYAN, Mr. BUMPERS, and Mr. CRAIG) proposed on amendment to the bill S. 1357, supra, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

§ 114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

D'AMATO AMENDMENT NO. 2993

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

On page 183, between lines 17 and 18, insert the following:

(C) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(i) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under subparagraph (A), the Board of Directors shall, by order, exempt any insured depository institution from payment of the special assessment if the institution was in existence on October 1, 1995, and held no Savings Association Insurance Fund insured deposits prior to January 1, 1993.

(ii) DEFINITION.—For purposes of this subparagraph, an institution shall be deemed to have held Savings Association Insurance Fund insured deposits prior to January 1, 1993, if it directly held Savings Association Insurance Fund insured deposits prior to that date, or it succeeded to, acquired, purchased, or otherwise holds any Savings Association Insurance Fund insured deposits as of the date of enactment of this Act that were Savings Association Insurance Fund insured prior to January 1, 1993.

On page 183, line 18, strike "(C)" and insert "(D)".

On page 199, line 9, insert "and subsection (e)" after "subsection".

On page 199, between lines 11 and 12, insert the following:

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(2) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f-14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) in paragraph (2)(D) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(v) by striking paragraph (2)(E) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act);

(vi) in paragraph (2)(F) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B).'; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 7(d) (12 U.S.C. 1817(d)) (as added by section 3001(c)(1) of this Act)—

(i) in the subsection heading, by striking "BANK" and inserting "DEPOSIT"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(I) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(J) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(K) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(L) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(M) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(O) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(P) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(Q) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(R) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(S) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(T) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(V) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(W) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(X) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Z) by striking section 31 (12 U.S.C. 1831h);

(AA) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(BB) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(CC) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(DD) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101-73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(10) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

On page 199, line 12, strike "(e)" and insert "(f)".

HUTCHISON (AND OTHERS) AMENDMENT NO. 2994

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicted persons found in their territories.

(8) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

HEFLIN (AND SHELBY) AMENDMENT NO. 2995

Mr. DOMENICI (for Mr. HEFLIN, for himself, and Mr. SHELBY) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

KENNEDY AMENDMENT NO. 2996

Mr. KENNEDY proposed an amendment to the bill S. 1357, supra, as follows:

On page 469, between lines 8 and 9, insert the following:

"(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance and deductibles required by such plan in accordance with subsection (c)

D'AMATO (AND OTHERS) AMENDMENT NO. 2997

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. GRAMS, and Mr. SHELBY) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

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

SEC.—. SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

FAIRCLOTH AMENDMENT NO. 2998

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

On page 187, line 3:
On page 187, line 22:
Strike "5" and insert "10."

FEINGOLD (AND OTHERS) AMENDMENT NO. 2999

Mr. FEINGOLD (for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, Mr.

KOHN, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

On page 33, strike lines 21 through 24.

FEINGOLD (AND WELLSTONE) AMENDMENT NO. 3000

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead," and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

FEINGOLD AMENDMENT NO. 3001

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals with Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 7500. Purposes, short title; table of contents.
Sec. 7501. State programs for home and community-based services for individuals with disabilities.
Sec. 7502. State plans
Sec. 7503. Individuals with disabilities defined.
Sec. 7504. Home and community-based services covered under State plan.
Sec. 7505. Cost sharing.
Sec. 7506. Quality assurance and safeguards.
Sec. 7507. Advisory groups.
Sec. 7508. Payments to States.
Sec. 7509. Appropriations; allotments to States.
Sec. 7510. Repeals.

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of

an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than;

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

((B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in

the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIRMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance of Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the Medicare program.

(g) PAYMENT FOR SERVICES.—IN ORDER TO PAY FOR COVERED SERVICES, A STATE PLAN MAY PROVIDE FOR THE USE OF—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COININSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less that 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representatives payees) of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000, $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATIONS.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii)

during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

KOHL AMENDMENT NO. 3002

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

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

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "contracts".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

DOLE (AND OTHERS) AMENDMENT NO. 3003

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. KOHL, Mr. GRASSLEY, and Mr. ROTH) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

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

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of study which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

COCHRAN (AND OTHERS) AMENDMENTS NO. 3004

Mr. COCHRAN (for himself, Mr. JEFFORDS, Mr. GORTON, Mr. LEAHY, Mr. COHEN, and Mr. SNOWE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 33, after line 24, insert the following:

(c) CLASS IV ACCOUNT.—Effective January 1, 1996, section 8c(5), of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: "Each marketing order issued pursuant to this section for milk and milk products shall include all skim milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV classification."; and

(2) by adding at the end the following:

"(M) CLASS IV ACCOUNT.—

"(i) DEFINITIONS.—In this paragraph:

"(I) ACCOUNT.—The term 'Account' means the Account for Class IV final products established under clause (ii).

"(II) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Account appointed under clause (vii).

"(III) CLASS IV FINAL PRODUCT.—The term 'Class IV final product' means butter, nonfat dry milk, and dry whole milk.

"(IV) MILK MARKETING ORDER.—The term 'milk marketing order' means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.

"(ii) ESTABLISHMENT OF ACCOUNT.—Notwithstanding any other provision of law, the Secretary shall establish an Account for Class IV final products to equalize returns from all milk used in the 48 contiguous States to produce Class IV final products among all milk marketed by producers for commercial use.

"(iii) CLASS IV PRICE AND DIFFERENTIAL; PRORATION.—

"(I) PRICE.—The Secretary shall determine a milk equivalent value per hundredweight for Class IV final products each month based on the average wholesale market prices during the month for Class IV final products. The milk equivalent value at 3.67 percent milkfat shall be the per hundredweight Class IV price under the Account.

"(II) DIFFERENTIAL.—The Administrator of the Account shall announce, on the first business day of each month, the per hundredweight Class IV differential applicable to the preceding month. The monthly Class IV differential shall be the amount, if any, by which the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) exceeds the Class IV price established pursuant to subclause (I).

"(III) PRORATION.—On or before the twentieth day after the end of each month, the Administrator of the Account shall—

"(aa) determine the quantity of milk produced in the 48 contiguous States of the United States and marketed for commercial use in producing Class IV final products during the preceding month;

"(bb) calculate the quantity equal to the number of hundredweights of milk used for Class IV final products during the preceding month (as determined under item (aa)) multiplied by the Class IV differential for the month established under subclause (II), and add to that amount the cost of administering the Account during the current month; and

"(cc) prorate the amount established under item (bb) among the total amount, in hundredweights, of milk produced in the 48 contiguous States and marketed for commercial use during the preceding month.

"(iv) ACCOUNT OBLIGATIONS.—On or before the twenty-fifth day after the end of each month:

"(I) Each person making payment to a producer for milk produced in any of the 48 contiguous States of the United States and marketed for commercial use shall collect from each producer the amount determined by multiplying the quantity of milk handled for the account of the producer during the preceding month by the Class IV differential proration established pursuant to clause (iii)(III)(ccc). The amount shall be remitted to the Administrator of the Account.

"(II) Any producer marketing milk of the producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Administrator of the Account the amount determined by multiplying the quantity of the milk marketed by the producer by the Class IV differential proration established under clause (iii)(III)(ccc).

"(v) DISTRIBUTION OF ACCOUNT PROCEEDS.—On or before the thirtieth day after the end of each month, the Administrator of the Account shall pay to each person that used skim milk and butterfat to produce Class IV final products during the preceding month a proportionate share of the total Account proceeds for the month. The proportion of the total proceeds payable to each person shall be the same proportion that the skim milk and butterfat used by the person to produce Class IV final products during the preceding month is of the total skim milk and butterfat used by all persons during the preceding month to produce Class IV final products.

"(vi) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for revenue distributions required under clauses (iv) and (v).

"(vii) ADMINISTRATION OF CLASS IV ACCOUNT.—The Secretary shall appoint a person to serve as the Administrator of the Account and shall delegate to the Administrator such powers as are needed to carry out the duties of Administrator.

"(viii) ENFORCEMENT.—

"(I) COLLECTION.—The amounts specified in clause (iv) shall be collected and remitted to the Administrator in the manner prescribed by the Secretary.

"(II) PENALTIES.—If any person fails to remit the amounts required under clause (iv) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subparagraph, the person shall be liable to the Secretary for a civil penalty up to, as determined by the Secretary, an amount determined by multiplying—

"(i) the quantity of milk involved in the violation; by

"(ii) the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) for the applicable calendar year.

"(III) ENFORCEMENT.—The Secretary may enforce this clause in the courts of the United States.

"(ix) REGULATIONS.—The Secretary shall issue regulations to establish the Account without regard to the notice and comment requirements of section 553 of title 5, United States Code.".

(d) NORTHEAST INTERSTATE DAIRY COMPACT.—Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C.608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact shall—

(A) terminate on the date that is 7 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior ratification by the States' legislatures.

On page 33, after line 24, insert the following:

(c) AGRICULTURAL COMPETITIVENESS GRANTS.—

The Secretary of Agriculture (referred to in this subtitle as the "Secretary") shall, in

accordance with this subtitle, award a grant to a grantee eligible under section 1502 to promote a purpose of this subtitle.

(d) ELIGIBLE GRANTEE.—

The Secretary may make a grant under section 1501 to—

(1) a college or university;

(2) a State agricultural experiment station;

(3) a State Cooperative Extension Service;

(4) a research institution or organization;

(5) a private organization or person; or

(6) a Federal agency.

(e) USE OF GRANT.—

A grant made under section 1501 may be used by a grantee for 1 or more of the following uses:

(1) Research, ranging from discovery to principles of application.

(2) Extension and related private-sector activities.

(3) Education.

(f) PRIORITY.—

In administering this subtitle, the Secretary shall—

(1) establish priorities for allocating grants, based on needs and opportunities of the food and agriculture system in the United States;

(2) seek and accept proposals for grants;

(3) determine the relevance and merit of proposals through a system of peer review; and

(4) award grants on the basis of merit and quality.

(g) ADMINISTRATION.—

(1) COMPETITIVE GRANT.—A grant under section 1501 shall be awarded on a competitive basis.

(2) TERMS.—A grant under section 1501 shall have a term that does not exceed 5 years.

(3) MATCHING FUNDS.—As a condition of receipt of a grant under section 1501, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(1) for applied research that is commodity-specific; and

(2) not of national scope.

(4) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available under section 1506 for administrative costs incurred by the Secretary in carrying out this subtitle.

(5) CONSTRUCTION COSTS.—None of the funds made available under section 1507 may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(h) REGULATIONS.—

The Secretary shall issue such regulations as are necessary to carry out this subtitle.

(i) USE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) IN GENERAL.—Subject to subsection (b), the Secretary shall use $30,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2002 to carry out this title.

(2) LIMITATION.—The Secretary may use less than $30,000,000 of the funds of the Commodity Credit Corporation for any fiscal year if the Secretary determines that the full funding level is not necessary to fund all qualifying applications for agricultural competitiveness grants that satisfy the priority criteria established under section 1504.

(3) POWERS OF THE CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) (as amended by section 1201(c)(1)) is amended by inserting after subsection (g) the following:

"(4) Carry out research, extension, and education related to agriculture by using not more than $30,000,000 of the funds of the Corporation in any fiscal year for any function or activity relating to agricultural research, extension, or education.".

(j) EFFECTIVE DATE.—

This subtitle and the amendment made by this subtitle shall become effective upon enactment.

CRAIG AMENDMENT NO. 3005

Mr. CRAIG proposed an amendment to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment;

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.

"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995."

Mr. President, I move to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

DOLE AMENDMENT NO. 3006

Mr. DOLE proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWNACE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with record to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs."

"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

LAUTENBERG AMENDMENT NO. 3007

Mr. LAUTENBERG proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

NICKLES (AND OTHERS) AMENDMENT NO. 3008

Mr. NICKLES (for himself, Mr. DOLE, and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

MOYNIHAN AMENDMENT NO. 3009

Mr. MOYNIHAN proposed an amendment to the bill S. 1357, supra, as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

DOLE (AND OTHERS) AMENDMENT NO. 3010

Mr. DOMENICI (for Mr. DOLE for himself, Mr. KOHL, Mr. GRASSLEY, Mr. ROTH, Mr. BOND, Mr. ASHCROFT, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 1357, supra, as follows:

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

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. President, the amendment that I am offering will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

D'AMATO AMENDMENT NO. 3011

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

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

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

GRASSLEY AMENDMENT NO. 3012

Mr. DOMENICI (for Mr. GRASSLEY) proposed an amendment to the bill S. 1357, supra, as follows:

On pages 764 and 765, section 2106. Medicaid Task Force, under subsection (c) "ADVISORY GROUP FOR THE TASK FORCE" add new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION".

Redesignate old (14) to be (15);
Redesignate old (15) to be (16);
Redesignate old (16) to be (17);
Redesignate old (17) to be new (18).

BOXER AMENDMENT NO. 3013

Mr. DOMENICI (for Mrs. BOXER) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

GRAHAM AMENDMENT NO. 3014

Mr. DOMENICI (for Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra, as follows:

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

HUTCHISON (AND OTHERS) AMENDMENT NO. 3015

Mr. DOMENICI (for Mrs. HUTCHISON for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS) proposed an amendment to the bill S. 1357, supra; as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soliders.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some 6,000 refugees recently reached Zenica and reported that nearly 2,000 family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have

been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eyewitness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned about pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovina.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

KOHL AMENDMENT NO. 3016

Mr. DOMENICI (for Mr. KOHL) proposed an amendment to the bill S. 1357, supra, as follows:

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

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS,**" after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly

owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

SIMPSON (AND ROBB) AMENDMENT NO. 3017

Mr. DOMENICI (for Mr. SIMPSON for himself and Mr. ROBB) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

WELLSTONE (AND CHAFEE) AMENDMENT NO. 3018

Mr. WELLSTONE (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 3019

Mr. ROCKEFELLER (for himself, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of part B of title XXI of the Social Security Act, as added by section 7191, add the following new section:

"SEC. 2118. EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.

"(a) 12-MONTH EXTENSION.—

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title provide that each family which was receiving assistance pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such assistance, because of hours of, or income from, employment of the parent or caretaker relative (as defined in subsection (d)), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 12-month period in accordance with this subsection

"(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of assistance under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be modified or terminated and the reporting requirements under paragraph (5); and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) MODIFICATION OR TERMINATION OF EXTENSION.—

"(A) MODIFICATION.—Subject to subparagraph (C), and, if the modification relates to the imposition of cost-sharing or premiums, subject to section 2113, the State may modify the terms of the extension of assistance during the 12-month period described in paragraph (1).

"(B) TERMINATION.—

"(i) NO DEPENDENT CHILD.—Subject to clause (ii) and subparagraph (C), extension of assistance during the 12-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child, whether or not the child is a needy child under part A of title IV.

"(ii) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of clause (i) but who may be eligible for assistance under the State plan because the child is described in section 2111(a)(2), the State may not discontinue such assistance under such clause until the State has determined that the child is not eligible for assistance under the plan.

"(C) NOTICE BEFORE MODIFICATION OR TERMINATION.—No modification or termination of assistance shall become effective under this paragraph until the State has provided the family with a 60-day notice of the grounds for the modification or termination, which notice shall include (in the case of termination) a description of how the family may reestablish eligibility for medical assistance under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

"(4) SCOPE OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), during the 12-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving assistance under the plan approved under part A of title IV.

"(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) non-acute care benefits.

"(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the parent or caretaker relative or by an employer of the absent parent of a needy child. In the case of such coverage offered by an employer of the parent or caretaker relative—

"(i) the State may require the parent or caretaker relative, as a condition of extension of coverage under this subsection for the parent or caretaker and the parent's or caretaker's family, to make application for such employer coverage, but only if—

"(I) the parent caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 2135).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option of the group health plan offered to the parent or caretaker relative.

"(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the parent or caretaker relative and needy children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) ENROLLMENT IN HMO, ETC.—Enrollment of the parent or caretaker relative and needy children in a capitated health care organization (as defined in section 2114(c)(1)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment

option that the State might offer under subparagraph (A)(i) with respect to receiving services through a capitated health care organization in accordance with section 2114.

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(5) REPORTING REQUIREMENTS.—Each State shall require (as a condition for extended assistance under this subsection) that a family receiving such extended assistance report to the State such eligibility verification as the State deems necessary. A State may permit such extended assistance under this subsection notwithstanding a failure to report under this paragraph if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.

"(b) APPLICABILITY IN STATES AND TERRITORIES.—

"(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.—The provisions of this section shall only apply to the 50 States and the District of Columbia.

"(c) GENERAL DISQUALIFICATION FOR FRAUD.—

"(1) INELIGIBILITY FOR ASSISTANCE.—This section shall not apply to an individual who is a member of a family which has received assistance under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such assistance before otherwise being provided extended eligibility under this section, the individual was ineligible for such assistance because of fraud.

"(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

"(d) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals With Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Community on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 7500. Purposes; short title; table of contents.
Sec. 7501. State programs for home and community-based services for individuals with disabilities.
Sec. 7502. State plans.
Sec. 7503. Individuals with disabilities defined.
Sec. 7504. Home and community-based services covered under State plan.
Sec. 7505. Cost sharing.
Sec. 7506. Quality assurance and safeguards.
Sec. 7507. Advisory groups.
Sec. 7508. Payments to States.
Sec. 7509. Appropriations; allotments to States.
Sec. 7510. Repeals.

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO CREATE A RIGHT TO SERVICES FOR INDIVIDUALS OR A REQUIREMENT THAT A STATE WITH AN APPROVED PLAN EXPEND THE ENTIRE AMOUNT OF FUNDS TO WHICH IT IS ENTITLED UNDER THIS SUBTITLE.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396d(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State Medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CASE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATE.—THE PLAN SHALL SPECIFY THE METHODS AND CRITERIA TO BE USED TO SET PAYMENT RATES FOR—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(A) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hand-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBLITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to he extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on State or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training program for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applications and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits in made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.

(B) For fiscal year 1998, $1,600,000,000.

(C) For fiscal year 1999, $2,600,000,000.

(D) For fiscal year 2000, $3,700,000,000.

(E) For fiscal year 2001, $5,000,000,000.

(F) For fiscal year 2002, $6,500,000,000.

(G) For fiscal year 2003, $8,200,000,000.

(H) For fiscal year 2004, $10,100,000,000.

(I) For fiscal year 2005, $12,100,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

SEC. . It is the sense of the Senate that the Congress shall define a basic health benefit package for pregnant women, all children up to age 12 years, and individuals with disabilities living under 100% of federal poverty in order to ensure that these groups are entitled to a federal guarantee of health care services for a meaningful set of benefits.

HARKIN (AND OTHERS) AMENDMENT NO. 3020

Mr. HARKIN (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. DASCHLE, Mr. HEFLIN, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra, as follows:

(a) In Title I strike Subtitles A, B, and C and insert the following:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SECTION 1001. SHORT TITLE.

This title may be cited as the "Farm Security Act of 1995".

Subtitle A—Commodity Programs

SEC. 1101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, 7/10 of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $4,500,000,000 for fiscal year 1996; and

"(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) PROGRAM COST LIMITATION.—

"(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

"(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

"(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

"(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

"(C) an acreage limitation program; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

"(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

"(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

"(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

"(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 1102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "1997" and inserting "2002";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1996 through 2002 crops".

SEC. 1103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1998 through 2002 crops".

SEC. 1104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "1997" and inserting "2002";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "1995" and inserting "2002"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(a)(2)) is amended—

(1) by striking "(2) SUPPORT RATES.—The" and inserting the following:

"(2) SUPPORT RATES.—

"(A) 1991-1995 CROPS.—The"; and

(2) by adding at the end the following:

"(B) 1996-2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 1105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "1996" and inserting "2002";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 1106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) MAJOR COUNTRY.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) ADJUSTMENT IN SUPPORT LEVEL.—

"(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

"(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) MARKETING ASSESSMENTS.—

"(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar

beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms

and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(j) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

"(k) LIMITATION ON OUTLAYS.—

"(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

"(A) $75,000,000, during any single marketing year; or

"(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

"(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

"(3) PERSON LIMITATION.—

"(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

"(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

"(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.".

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SEC. 1108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A 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. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1996" and inserting "2002".

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "oilseeds" and all that follows through "determine),".

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 1109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking "1997" each place it appears and inserting "2002"; and

(2) in subsection (b), by striking "1995" and inserting "2002";

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1997" each place it appears and inserting "2002";

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1997" each place it appears and inserting "2002"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears and inserting "2002".

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 1110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 1201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

"(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

(b) Strike sections 12161 and 12162.

WELLSTONE (AND LIEBERMAN) AMENDMENT NO. 3021

Mr. WELLSTONE (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 1357, supra as follows:

SEC. 1. PAYMENT LIMITATION.

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446f) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENTS.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(a)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103(B)(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308-3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS.

(a) Strike section 1103(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(b) Strike section 1104(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(c) Strike section 1105(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';" and

(d) Strike section 1106(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent'.".

SEC. 3. CONSERVATION RESERVE PROGRAM.

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

(3) "$1,476,000,000 for the fiscal year 1998;

(4) "$1,277,000,000 for the fiscal year 1999;

(5) "$1,131,000,000 for the fiscal year 2000;

(6) "$1,029,000,000 for the fiscal year 2001; and

(7) "$1,004,000,000 for the fiscal year 2002."

BROWN AMENDMENT NO. 3022

Mr. DOMENICI (for Mr. BROWN) proposed an amendment to the bill S. 1357, supra; as follows:

On page 13, strike line 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad" account).

BRADLEY AMENDMENT NO. 3023

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5400 and 5401.

LEAHY AMENDMENT NO 3024

Mr. EXON (for Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 103, on line 6, strike "(D)" and insert "(E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:

"SEC. 1430. PROVIDING FUNDING FOR AMERICA SAMOA.

"Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96-597 during that fiscal year.'.".

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

BUMPERS (AND OTHERS) AMENDMENT NO. 3025

Mr. BUMPERS (for himself, Mr. BRADLEY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike pages 360-382 and insert the following in lieu thereof: Property Act of 1944 (50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 7 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

"(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

"(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.".

"(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing

Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this Subtitle.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(10) "Secretary" means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEE.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) CREDIT AGAINST ROYALTY.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: *Provided, however*, That, if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) REPEAL OF OMNIBUS BUDGET RECONCILIATION ACT FEE REQUIREMENTS.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) WAIVER OF FEE.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) RELATED PERSONS.—As used in subsection (a), the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) RIGHT OF REENTRY.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(5) REVENUES RECEIVED.—All Revenues Received shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received shall be determined by the accrual method.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an operation, with ore from other lands and properties: *Provided, however,* That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle shall be due on the date that is 12 months after the date of enactment of this subtitle.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Produc- * * *

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3026

Mr. DOMENICI (for Mr. BINGAMAN, for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking "section 1869(b)" and inserting "section 1869 (a) or (b)".

LOTTS (AND JEFFORDS) AMENDMENT NO. 3027

Mr. DOMENICI (for Mr. LOTT, for himself and Mr. JEFFORDS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7)not more than $250,000 to acquire sites at Perryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

BUMPERS (AND OTHERS) AMENDMENT NO. 3028

Mr. BUMPERS (for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

BIDEN AMENDMENT NO. 3029

Mr. BIDEN proposed an amendment to the bill S. 1357, supra; as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

BUMPERS (AND OTHERS) AMENDMENT NO. 3030

Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

BRADLEY AMENDMENT NO. 3031

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and

any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesigning subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

One page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor but)—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

BRADLEY (AND HARKIN) AMENDMENT NO. 3032

Mr. BRADLEY (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

DORGAN (AND OTHERS) AMENDMENT NO. 3033

Mr. DORGAN (for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1357, supra, as follows:

AMENDMENT NO. 3033

Strike section 12141 and insert:

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

"(1) the qualified capital gain of the taxpayer for the taxable year, or

"(2) the excess of—

"(A) $250,000, over

"(B) the aggregate amount allowable as a deduction under this section for prior taxable years.

"(b) QUALIFIED CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) gain for the taxable year from sales or exchanges after October 13, 1995, of capital assets held more than 10 years.

"(2) SALES BETWEEN RELATED PARTIES.—Gains from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)) shall not be taken into account in determining qualified capital gain.

"(3) SPECIAL RULE FOR SECTION 1250 PROPERTY.—Solely for purposes of this section, in applying section 1250 to any disposition of section 1250 property, all depreciation adjustments in respect of the property shall be treated as additional depreciation.

"(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(3) an estate or trust.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—The amount of the qualified capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under subsection (a)(2) for any succeeding taxable year.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995, the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995."

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, 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 the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) COORDINATION WITH OTHER PROVISIONS.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced (but not below zero) by the sum of—

"(A) the amount of the qualified capital gain (as defined in section 1202(b)) for the taxable year to the extent taken into account under section 1202(a) for the taxable year, plus

"(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(c) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(d) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent'".

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking "1202" and inserting "1203".

(e) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(f) TECHNICAL AND CONFORMING CHANGES.—

(1) Clause (iii) of section 163(d)(4)(B) is amended to read as follows:

"(iii) the sum of—

"(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

"(II) so much of the gain described in subclause (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause."

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account."

(4) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(5) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account."

(6) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(7) Paragraph (4) of section 691(c) is amended by inserting "1203," after "1202,".

(8) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(9)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(10) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(11)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995."

(12) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(13) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(14)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8

percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(15) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(1) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see section 1202."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.

"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (e) shall apply to sales and exchanges after October 13, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (f)(11) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (f)(13) shall apply only to amounts paid after the date of the enactment of this Act.

On page 1703, between lines 17 and 18, insert:

(g) CITIZENS BECOMING COVERED EXPATRIATES TO BE TAXED AS RESIDENTS UPON RETURN TO UNITED STATES.—Paragraph (3) of section 7701(b) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR COVERED EXPATRIATES.—Notwithstanding any other provision of this paragraph, in the case of an individual who is treated as a covered expatriate under section 877A by reason of relinquishing the individual's United States citizenship, such individual shall be treated as meeting the substantial presence test of this paragraph with respect to any calendar year if the individual is present in the United States for more than 30 days during the calendar year. The preceding sentence shall not apply to the extent that the Secretary determines its application would contravene any treaty of the United States."

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that (a) the Senate conferees should not recede to the House on the provisions of this chapter eliminating the tax loophole for billionaires and other wealthy individuals who renounce their United States citizenship in order to avoid their fair share of United States taxes; and (b) the Senate reaffirms its commitment to eliminate this tax loophole.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3034

Mr. FEINGOLD (for himself, Mr. WELLSTONE, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SIMON (AND OTHERS) AMENDMENT NO. 3035

Mr. SIMON (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

WELLSTONE AMENDMENT NO. 3036

Mr. WELLSTONE proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5930, 5931, and 5932.

D'AMATO AMENDMENT NO. 3037

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra; as follows:

On page 187, line 3: and on page 187, line 22, strike "5" and insert "10."

ROTH AMENDMENT NO. 3038

Mr. ROTH proposed an amendment to the bill S. 1357, supra; as follows:

On page 541, strike line 22, and all that follows through page 542, line 2, and insert:

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

"(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

"(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

"(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.".

On page 548, between lines 2 and 3, insert the following new section:

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking "by or in a skilled nursing facility" and inserting "by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

On page 548, strike line 3, and all that follows through page 568, line 13, and insert the following:

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.2 percent (1.1 percent for fiscal years after 1997).

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

"(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 7038. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

On page 774, between lines 2 and 3, insert the following:

"(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

Beginning on page 775, strike line 14 and all that follows through page 776, line 10, and insert the following:

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

On page 813, strike lines 4 through 10, and insert the following:

"(A) fiscal year 1996 is $97,245,440,000;

"(B) fiscal year 1997 is $102,607,730,702;

"(C) fiscal year 1998 is $106,712,039,930;

"(D) fiscal year 1999 is $110,980,521,527;

"(E) fiscal year 2000 is $115,419,742,389;

"(F) fiscal year 2001 is $120,036,532,084;

"(G) fiscal year 2002 is $124,837,993,367;

On page 814, strike lines 9 through 24, and insert the following:

fiscal year 1996, subject to paragraph (4), is 109 percent of—

"(i) the greatest of—

"(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

"(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

"(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

"(ii) the scalar factor described in subparagraph (D).

Beginning on page 815, line 10, strike all through page 816, line 13 and insert the following:

"(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

Beginning on page 818, line 12, strike all through page 819, line 8, and insert the following:

"(A) FLOOR.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

"(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

"(II) .24 percent of the pool amount for such fiscal year; or

"(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.9 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

"(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

"(I) For fiscal year 1999, 104.25 percent.

"(II) For fiscal years 2000 and 2001, 104 percent.

"(III) For fiscal year 2002, 103.4 percent.

"(B) CEILING.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

"(I) for fiscal year 1997, 125.5 percent;

"(II) for fiscal year 1998, 132 percent;

"(III) for fiscal year 1999, 151 percent;

"(IV) for fiscal year 2000, 156 percent;

"(V) for fiscal year 2001, 144 percent.

"(VI) for fiscal year 2002, 146 percent.

On page 833, line 21, after "section 2121" insert ", plus any additional amount available to such State under subsection (g) or (h),".

On page 858, before line 19, insert the following new subsection:

"(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) CARRYOVER OF ALLOTMENT PERMITTED.—

"(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

"(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

"(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

"(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

"(2) EXCESS AMOUNTS REALLOCATED.—

"(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover

amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

"(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

"(i) with a State outlay allotment under section 2121 which is—

"(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

"(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

"(III) subject to such floor;

"(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

"(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

"(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

"(i) All qualified States described in subparagraph (B)(i)(I).

"(ii) All qualified States described in subparagraph (B)(i)(II).

"(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

"(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

"(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

"(A) For Arizona, $63,000,000.

"(B) For Florida, $250,000,000.

"(C) For Georgia, $34,000,000.

"(D) For Kentucky, $76,500,000.

"(E) For South Carolina, $181,000,000.

"(F) For Washington, $250,000,000.

"(G) For Vermont, $50,000,000.

On page 858, line 19, strike "(g)" and insert "(i)".

At the end of Subtitle B of Title VII insert:

SEC. 7196: ADJUSTMENT OF POOL AMOUNTS

Notwithstanding any other provisions in law, the Secretary shall adjust Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 for each state by a proportionate amount such that total Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 shall not exceed the amounts provided in section 2121(b)(1) of Social Security Act as added by section 7191(a) of this Act,

a. reduced by $1,900,000,000 in FY 1996, and increased by a similar amount in the subsequent fiscal year; and

2b. reduced by $2,300,000,000 in FY 2000, and increased by a similar amount in the subsequent fiscal year.

Beginning on page 889, line 20, strike all through page 897, line 19, and insert the following: collected shall be paid to such individual.

"(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

"SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

"(a) REQUIREMENTS FOR NURSING FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

"(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

"(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

"(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

"(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

"(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

"(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

"(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

"(i) the penalty described in subsection (b);

"(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

"(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

"(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).

On page 980, between lines 2 and 3, insert the following new sections:

SEC. 7196. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking "ANNUAL".

SEC. 7197. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

SEC. 7198. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project

conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

On page 1394, after line 19, insert the following:

SEC. 7482. COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEAR 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average for all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

Beginning on page 786, strike line 9 and all that follows through page 788, line 6.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, on January 31, 1995, I introduced my first bill as a U.S. Senator, S. 3004, the Commercial Aviation Fuel Tax Repeal Act. We are now on the verge of passing a budget which, for the first time in 26 years, will balance the Federal budget and eliminate the Federal deficit. I am proud to note that S. 304 has been incorporated to a great extent into this historic budget. As a result, I wish to take this time to mention the thousands of workers and the many unions and business professionals who have provided consistent support for this crucial piece of legislation.

First, I wish to submit for the record a resolution as passed by the National Aerospace Workforce Coalition. Throughout the debate on the aviation fuel tax issue, I worked closely with the National Aerospace Workforce Coalition. This organization consists of local unions and workforce associations. The coalition represents some 42 different unions in 29 States. Many of my colleagues have received letters and phone calls from coalition members in their States. The coalition believes, as I do, that a commercial aviation fuel tax will be extremely harmful to America's manufacturing base.

The resolution which I have submitted goes to the heart of the relationship between a tax on jet fuel and commercial aircraft orders, namely, that every increase in taxes on commercial jet fuel will be followed by more cancellations and deferred orders of American made engines and aircraft.

The labor unions supporting the repeal of this fuel tax include the spectrum of America's aerospace industrial base. This resolution has been passed by unions representing scientists and engineers, production workers, as well as unions engaged in casting and fabricating the specialized metals used in the production of modern aircraft.

Further, I wish to note that the International Association of Machinist and Aerospace Workers, District Lodge 141 passed a similarly worded resolution on October 24, 1995. This union represents 34,000 members at 13 airlines, and their delegates unanimously passed this resolution at their annual convention.

The balanced budget which the Senate will pass shortly relieves the airline industry from any unfair tax, but only for a limited time. Currently, the House of Representatives has extended the aviation fuel tax exemption for 2 years and the Senate shall extend it for only 17 months. I am pleased that in these difficult budgetary times both Chambers have recognized not only the unfairness of this unprecedented tax, but the critical need to avoid further hindering a struggling industry. However, absent outright repeal, I strongly believe that any extension of the exemption must run for at least 2 years. I will work hard during the House-Senate conference on the budget to ensure that the extension extends for at least this long. Further, it is critical for the Congress to address broader taxation and fee issues with respect to the airline industry during the next session of the 104th Congress. I will work to hold hearings on this issue in the spring of 1996.

The reasons for at least a 2-year extension are clear. U.S. airlines have lost money every year since 1990, with losses for the period totaling almost $13 billion. Almost one-half of all major U.S. airlines have filed for chapter 11 bankruptcy protection during the crisis, including America West, Continental, twice, TWA, twice, Eastern, Pan Am, and Midway. The last three have ceased operations altogether. Cumulative industry debt since 1990 has increased from $9 billion to $46 billion, and the bonds of all major U.S. airlines are rated as junk bonds. Airlines are facing Government-mandated fleet replacement costs to upgrade fleets to quiet technology aircraft that will exceed $15 billion a year through the rest of the decade. Imposing a fuel tax now, at a cost of $527 million a year, would wreak havoc on an industry struggling to survive.

In addition, the airline industry has historically paid excise and cargo fees in lieu of any fuel tax. These fees will exceed $6.9 billion in 1995. Imposing a fuel tax absent any broader effort at reassessing these other taxes would be both unprecedented and unfair.

Hence, for both fiscal and fairness reasons, an extension of the aviation fuel tax exemption is greatly needed. While we in the Senate have taken steps in the right direction by incorporating S. 304, in part, into this year's budget act, we must continue to ensure that the airline industry is taxed fairly. This industry is one of our Nation's last great manufacturing gains, and its tens of thousands of workers deserve the right to continue to uphold America's predominance in this critical industry.

I ask that the National Aerospace Workforce Coalition resolution referred to earlier be printed in the RECORD.

The resolution follows:

AVIATION FUEL TAX RESOLUTION

Whereas our country's airline industry has suffered enormous losses over the last five years, reducing airline employment by more than 120,000 workers and forcing remaining workers to accept reductions in wages and benefits;

Whereas several years ago government mandates required the airline companies to pay excise taxes and fees in lieu of a fuel tax, which today collectively amounts to more than 52 cents per gallon of fuel and places our nation's airline companies at a competitive disadvantage;

Whereas there is a direct relationship between a healthy airline industry and a healthy aerospace industry, and that only profitable airlines can modernize their fleets with American-built engines and aircraft to help revive an aerospace industry already devastated by drastic cuts in defense;

Whereas over 1,000 commercial aircraft orders have been canceled or deferred in the past five years, because of losses in the airline industry resulting in a cost of 125,000 airframe and aerospace jobs;

Whereas every increase in taxes on commercial airline fuel will be followed by more cancellations and deferred orders of American-made aircraft;

Therefore the National Aerospace Workforce Coalition urges the Senate to repeal the aviation fuel tax as it will only cause more hardship for American workers and further erode our country's aerospace industrial base.●

CONSECRATION CELEBRATION

● Mr. SARBANES. Mr. President, I rise today to call to the attention of my colleagues the activities that are underway to commemorate the consecration celebration of the St. Demetrios Greek Orthodox Church of Baltimore, MD. This indeed is a major achievement for this community and culminates 25 years of dedication, hard work, and energetic involvement.

His Excellency Metropolitan Silas of New Jersey will join with Father Ernest Arambiges, pastor of St. Demetrios, and the parishioners and friends of the community to celebrate the ancient ceremony of consecration. This signifies that the church is formally dedicated to its spiritual mission.

Founded in 1970, St. Demetrios is one of three centers of worship for the Greek Orthodox community in Baltimore. Located in northern Baltimore County, St. Demetrios is a product of the love and labor of its parishioners. It took the 300 families of St. Demetrios almost 8 years of fundraising before they had the means to build their church's edifice. Before that, they worshipped in the auditorium of Parkville High School. The community has worshipped in the present edifice for over a decade and has found itself a permanent and lasting home.

The consecration marks a new chapter in the history of Orthodoxy in Maryland as the St. Demetrios community is the first in the Baltimore area located outside the central city area. It is a focal point for wholesome community life where young and old can pray, learn, and grow together both socially and spiritually.

I want to congratulate the entire St. Demetrios family for their dedication and for enriching our Baltimore community with this inspiring church building.

Mr. President, I request that an article from the Baltimore Sun which records this important event be printed in the RECORD.

The article follows:

[From the Baltimore Sun]

ST. DEMETRIOS CONSECRATION PLANNED SUNDAY

In what Greek Orthodox clergy say is "a once-in-lifetime event," Baltimore County's St. Demetrios Church will be consecrated this weekend by two of the denomination's revered leaders, who will encase relics of three early Christian saints in the altar table.

His Eminence Archbishop Iskovos and His Excellency Metropolitan Silas will preside at the consecration service at 9 a.m. Sunday, the culmination of a series of ancient rites this week at the domed church at 2504 Cub Hill Road.

Construction of the church, decorated in the Byzantine style, began in 1983 on a 30-acre site in the Cub Hill section of the county north of Carney.

Bones of Saints Boniface, Cyril of Alexandria and Panteleimon will be brought to the church tomorrow and set on a paten. The relics will be covered with a veil until Sunday morning, when they will be interred in a 1,600-year-old ceremony.

During the services Sunday, Archbishop Iakovos, Primate of the Greek Orthodox Archdiocese of North and South America, will be assisted by Metropolitan Silas, who has immediate jurisdiction over the parish. They will carry the relics around the church three times in a procession of the congregation.

Water and oil will be used in the consecration service, which will include the lighting of the vigil lamp before the tabernacle.

The congregation's worship and celebrations this week began with the St. Demetrios Feast Day Vesper Service and a reception Wednesday evening, and continued with a Divine Liturgy yesterday morning. The Great and Solemn Vespers of Consecration at 7 p.m. tomorrow will be followed by another reception in the church's Fellowship Hall.

The congregation has planned a third reception and a dinner-dance beginning at 5 p.m. Sunday at the Sheraton Baltimore North Hotel, 903 Dulaney Valley Road, Towson.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate go into Executive session and immediately proceed to consideration to calendar nominations 316 and 328. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc, are as follows:

NAVY

The following named captains of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral (lower half) in the line and staff corps, as indicated, pursuant to the provision of Title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Kenneth Peter Barausk[redacted], U.S. Naval Reserve

Capt. Martin Edward Jancza[redacted], U.S. Naval Reserve

Capt. Pierce Jarvis Johnso[redacted], U.S. Naval Reserve

Capt. Michael Robert Sco[redacted], U.S. Naval Reserve.

INTELLIGENCE OFFICER

To be rear admiral (lower half)

Capt. Larry Lafayette P[redacted], U.S. Naval Reserve

PUBLIC AFFAIRS OFFICER

to be rear admiral (lower half)

Capt. Richard Harry Well[redacted], U.S. Naval Reserve

MEDICAL CORPS OFFICER

To be rear admiral (lower half)

Capt. John Bert Cotto[redacted], U.S. Naval Reserve

Capt. John Conant Weed, J[redacted], U.S. Naval Reserve

SUPPLY CORPS

To be rear admiral (lower half)

Capt. Fred Joseph Schuber I[redacted], U.S. Naval Reserve

CHAPLAIN CORPS

To be rear admiral (lower half)

Capt. Peter Hess Beckwit[redacted], U.S. Naval Reserve

DEPARTMENT OF DEFENSE

John Wade Douglass, of Virginia, to be an Assistant Secretary of the Navy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR TUESDAY, OCTOBER 31, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., Tuesday, October 31; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use at their choice later in the day, and the Senate

then proceed to a period for the transaction of routine morning business until 10 a.m., with Senators permitted to speak for up to 10 minutes each.

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

Mr. LOTT. I further ask that following the period for morning business the Senate proceed to the consideration of the Transportation appropriations conference report.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will consider the Transportation conference report, and other available appropriations conference reports and bills, and possibly available authorizations bills. At least a couple of hours of debate is anticipated for the appropriations conference report, and a rollcall vote may be requested on adoption of the conference report. However, that vote would not occur until after the policy luncheons some time after 2 o'clock.

I ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. in order for the weekly party caucuses to meet.

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

ADJOURNMENT UNTIL 9:30 A.M. TUESDAY, OCTOBER 31, 1995

Mr. LOTT. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:29 a.m. adjourned until Tuesday, October 31, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 27, 1995:

THE JUDICIARY

CHARLES R. STACK, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE PETER T. FAY, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE.

To be vice admiral

VICE ADM. RICHARD C. ALLEN [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

RAYMOND W. CARPENTER [redacted]
STEVEN C. CORDON [redacted]
ERNEST A. FITH [redacted]
HAROLD E. KING, JR [redacted]
EARL E. LAUER [redacted]
HOWARD E. MAYHEW [redacted]
KIPP O. MILLER [redacted]
THOMAS R. OWENS [redacted]
DENNIS W. PIKE [redacted]
KENNETH B. ROBINSON [redacted]
CHARLES H. SCHLUTER [redacted]
FRANK J. SMITH [redacted]
LARRY S. STROUD [redacted]
JAMES A. WHITEHEAD [redacted]
KENNETH F. WONDRACK [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

THOMAS G. SCHUMACHER [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

DAVID K. APPEL [redacted]
RODNEY J. BARHAM [redacted]
COURTLAND C. BIVENS III [redacted]
JOHN L. BRACKLIN [redacted]
ALONZO BRONSON [redacted]
RUSSELL A. CATALANO [redacted]
GERARD R. COGLIANO [redacted]
WILLIAM H. FINCK [redacted]
EARNEST L. HARRINGTON, JR [redacted]
JOHN W. HELTZEL [redacted]
DUDLEY B. HODGES III [redacted]
STEPHAN K. HUCAL [redacted]
HAROLD D. IRELAND [redacted]
JAMES R. LILE [redacted]
CASEY B. LOWE [redacted]
LARRY J. MASSEY [redacted]
LARRY W. MASSEY [redacted]
WILLIAM C. MATHERS, JR [redacted]
ROBERT J. MITCHELL [redacted]
KENNETH NIELSEN [redacted]
NORRIS D. PFEIFER [redacted]
PRICE L. REINERT [redacted]
CARLON L. SMITH [redacted]
MICHAEL G. TEMME [redacted]
JACOB A. VAN GOOR [redacted]
GARY W. VARNEY [redacted]
HERBERT R. WATERS II [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

DONNA Y. CRUZE [redacted]
KAREN H. PRICE [redacted]
OLGA C. RODRIGUEZ [redacted]

MEDICAL CORPS

To be lieutenant colonel

TERRENCE J. IHNAT [redacted]
DONALD G. WARD, JR [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 28, 1995:

DEPARTMENT OF DEFENSE

JOHN WADE DOUGLASS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. KENNETH PETER BARAUSKY, [redacted] U.S. NAVAL RESERVE.
CAPT. MARTIN EDWARD JANCZAK [redacted] U.S. NAVAL RESERVE.
CAPT. PIERCE JARVIS JOHNSON [redacted] U.S. NAVAL RESERVE.
CAPT. MICHAEL ROBERT SCOTT [redacted] U.S. NAVAL RESERVE.

INTELLIGENCE OFFICER

To be rear admiral (lower half)

CAPT. LARRY LAFAYETTE POE [redacted] U.S. NAVAL RESERVE.

PUBLIC AFFAIRS OFFICER

To be rear admiral (lower half)

CAPT. RICHARD HARRY WELLS [redacted] U.S. NAVAL RESERVE.

MEDICAL CORPS OFFICER

To be rear admiral (lower half)

CAPT. JOHN BERT COTTON [redacted] U.S. NAVAL RESERVE.
CAPT. JOHN CONANT WEED, JR. [redacted] U.S. NAVAL RESERVE.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. FRED JOSEPH SCHUBER, II [redacted] U.S. NAVAL RESERVE.

CHAPLAIN CORPS

To be rear admiral (lower half)

CAPT. PETER HESS BECKWITH [redacted] U.S. NAVAL RESERVE.